

**SIXTY-FIRST DAY**  
(Wednesday, May 10, 1989)

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Washington, Whitmire, Zaffirini.

A quorum was announced present.

Former Senator and Supreme Court Justice Jim Wallace offered the invocation as follows:

Our Father, we are thankful to You for the privilege of being here this morning. Thank You for this body and all it has done in the past, is doing now and will be doing in the future. Thank You for Your love for us, the power and strength You have and give to us to do what is right and just. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

**REPORTS OF STANDING COMMITTEES**

Senator Glasgow submitted the following report for the Committee on Jurisprudence:

**H.B. 1795**  
**H.B. 596**  
**C.S.S.B. 388**

Senator McFarland submitted the following report for the Committee on Criminal Justice:

**S.B. 1377**  
**S.B. 588**  
**S.B. 738**  
**S.B. 748**  
**C.S.S.B. 850**  
**C.S.S.B. 303**  
**C.S.S.B. 1677**  
**C.S.S.B. 1559**

Senator Caperton submitted the following report for the Committee on Finance:

**H.B. 428**  
**H.B. 2528**  
**C.S.S.B. 1732**  
**C.S.S.B. 1767**  
**C.S.H.B. 981**  
**C.S.H.B. 2619**

Senator Whitmire, Acting Chairman, submitted the following report for the Committee on Health and Human Services:

S.B. 957  
H.C.R. 13

Senator Uribe, Vice-Chairman, submitted the following report for the Committee on Health and Human Services:

S.B. 1362  
H.B. 2597  
H.C.R. 129  
S.C.R. 128  
S.B. 1542 (Amended)  
C.S.S.B. 1686  
C.S.S.B. 888  
C.S.S.B. 1784

Senator Johnson, Acting Chairman, submitted the following report for the Committee on Health and Human Services:

C.S.S.B. 1523

Senator Whitmire, Acting Chairman, submitted the following report for the Committee on Health and Human Services:

C.S.S.B. 1765

Senator Uribe, Vice-Chairman, submitted the following report for the Committee on Health and Human Services:

C.S.S.B. 1479

Senator Parker submitted the following report for the Committee on Education:

H.B. 549  
H.B. 684  
H.B. 3  
C.S.H.B. 1888

Senator Parmer submitted the following report for the Committee on Intergovernmental Relations:

H.B. 2231  
S.B. 1748  
S.B. 1692  
H.B. 1350  
H.B. 1065  
H.B. 960  
H.B. 2802  
H.B. 1171  
S.B. 692  
S.B. 680  
S.B. 110  
H.B. 1712  
H.B. 860  
H.B. 509  
H.B. 1885  
H.B. 1684

H.B. 462  
H.B. 306  
S.B. 1694  
S.B. 1669  
S.B. 1744 (Amended)  
H.B. 1788 (Amended)  
C.S.S.B. 1363  
C.S.S.B. 1241  
C.S.S.B. 1483  
C.S.S.B. 16  
C.S.S.B. 688  
C.S.S.B. 1628  
C.S.S.B. 1585  
C.S.H.B. 2963

Senator Edwards submitted the following report for the Committee on Nominations:

We, your Committee on Nominations, to which were referred the attached appointments, have had same under consideration, and report them back to the Senate for final consideration.

To be Members of the RADIATION ADVISORY BOARD: Ralph Buell, Brazoria County; William G. Hendrick, Travis County; Dr. Glen Keith King, Fort Bend County; Dr. Jack Stewart Krohmer, Williamson County; Jesse W. Locke, Dallas County; Benjamin Manley McKibbens, Cameron County; Dr. James W. Orr, Travis County; Dr. Jack D. Ramsey, Taylor County; Jay H. Reynolds, Wilson County; Forrest E. Robertson, Wichita County; Dr. Robert Daniel Smith, Travis County; Dr. Vernie A. Stembridge, Dallas County; Dr. Rodolfo Lucas Villarreal, Harris County.

To be a Member of the STATE BOARD OF INSURANCE: Paul T. Wrotenbery, Travis County.

To be Members of the TEXAS HIGHER EDUCATION COORDINATING BOARD: Ms. Carolyn Rembert Bacon, Dallas County; Frank Kell Cahoon, Midland County; Hal Daugherty, El Paso County; Cipriano F. Guerra, Jr., Bexar County; Gregory Eldon Mitchell, Randall County; Mrs. Kathryn Amsler Priddy, Dallas County.

To be Members of the BOARD OF REGENTS, TEXAS STATE UNIVERSITY SYSTEM: Daniel N. Matheson III, Travis County; George William Worth, Bexar County.

To be Members of the BOARD OF REGENTS, TEXAS STATE TECHNICAL INSTITUTE: George Weldon Baur, Harris County; Jesse S. Harris, Dallas County.

To be Members of the BOARD OF DIRECTORS, UNIVERSITY SYSTEM OF SOUTH TEXAS: James H. Clement, Jr., Kleberg County; Jerry W. Gates, Nueces County; J. Philip McCormick, Travis County.

To be Members of the BOARD OF REGENTS, MIDWESTERN STATE UNIVERSITY: Dr. David H. Allen, Wichita County; Dunman Perry, Jr., Palo Pinto County; Mrs. Kathryn Anne Yeager, Wichita County.

To be Members of the BOARD OF REGENTS, TEXAS WOMAN'S UNIVERSITY: Maurice Lee Barksdale, Tarrant County; Mrs. Janet Johnson, Dallas County; Ms. Jeanne L. Johnson, Dallas County.

To be Members of the LOWER CONCHO RIVER WATER AND SOIL CONSERVATION AUTHORITY: Leroy Paul Beach, Concho County; Howard E. Loveless, Concho County.

To be Members of the BOARD OF REGENTS, TEXAS TECH UNIVERSITY: General Richard E. Cavazos, Williamson County; Alan B. White, Lubbock County.

To be a Member of the TEXAS BOARD OF HEALTH: Dr. Donald M. Peterson, Dallas County.

To be Members of the TEXAS BOARD ON AGING: Ms. Margaret W. Carter Luckie, Wharton County; Mrs. Jan Patterson, Dallas County.

To be Members of the GOVERNING BOARD OF THE TEXAS SCHOOL FOR THE BLIND: Mr. Crispin E. Sanchez, Webb County; Ms. Olivia Chavez Schonberger, El Paso County; Dr. Nalin H. Tolia, Ector County.

To be Members of the GOVERNING BOARD OF THE TEXAS SCHOOL FOR THE DEAF: Dr. Kenneth Z. Altshuler, Dallas County; Jack H. Hensley, Travis County; Jerry Allen James, Harris County; Mrs. Irene Elizabeth Davila Jones, Tarrant County; Robert Bruton Neely, Dallas County; Gary Adrian Utley, Harris County.

To be Members of the TEXAS COMMISSION FOR THE DEAF: Gwendel D. Butler, Travis County; Donald Howard England, Travis County; Ms. Mary Helen Haltom, Tarrant County.

To be Members of the TEXAS REHABILITATION COMMISSION: Commissioner Jim Gray, Gregg County; Jerry Kane, Nueces County; Ray A. Wilkerson, Travis County.

To be a Member of the TEXAS COMMITTEE ON PURCHASES OF PRODUCTS AND SERVICES OF BLIND AND SEVERELY DISABLED PERSONS: Mearl Zeek Harris, Travis County.

To be Members of the TEXAS HEALTH AND HUMAN SERVICES COORDINATING COUNCIL: Ms. Anne Ashy, Victoria County; Ms. Pamela Jean Covington, Dallas County; Jerry P. Cunningham, Dallas County; Jerry Kane, Nueces County; Ms. Polly Key Sowell, Travis County.

To be Members of the TEXAS DIABETES COUNCIL: Ms. Helen G. Brogdon, Parker County; Robert Steven Davidson, Midland County; Ms. Lily Mae Fonteno, Harris County; Mrs. Judy M. Hunt, Dallas County; Mrs. Maurilia Flores Rodriguez, Cameron County; Ms. Linda W. Russell, Dallas County; Dr. Michael P. Stern, Bexar County; Dr. Luther B. Travis, Galveston County.

To be Members of the STATE HUMAN RIGHTS COMMISSION: Mrs. Rae Schollmaier, Tarrant County; Mrs. Laura Zuniga, El Paso County.

To be Members of the COUNCIL ON DISABILITIES: Ms. Mary Carolyn Knott, El Paso County; Marvin Richard Marek, Jr., Bexar County; Mrs. Linda J. Parker, Kerr County; Ms. Martha Virginia Wynne, Dallas County.

To be Members of the TEXAS ADVISORY BOARD OF OCCUPATIONAL THERAPY EXAMINERS: Ms. Graciela Garcia, Harris County; Ms. Sally Wise Schultz, Collin County.

To be a Member of the TEXAS OPTOMETRY BOARD: Jimmy Bitner, Gillespie County.

To be Members of the TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS: Russell J. Baird, Wharton County; Travis B. Cox, Guadalupe County; Henry Lynn Laird, Randall County.

To be Members of the TEXAS STATE BOARD OF PODIATRY EXAMINERS: Harry V. Burns, Bexar County; Dr. Preston Goforth, Bell County; Dr. Eugene Ruben Scioli, Lubbock County; Rick D. Sorrells, Dallas County; Mrs. Betty Frances Walker, Ector County.

To be Members of the HOSPITAL LICENSING ADVISORY BOARD: Dr. Richard Lewis Ballard, Hidalgo County; Larry M. Graham, Kaufman County; Dr. Brian Stanley Harper, Milam County; Jake Henry, Jr., Lubbock County; Mrs. Mayola Elizabeth Lasater, Parker County; Dr. George Willeford III, Travis County; Mrs. Irene S. Wischer, Bexar County.

To be Members of the TEXAS HOSPITAL EQUIPMENT FINANCING COUNCIL: Ms. Nancy June Huggins, Dallas County; Dr. Richard F. Kieper, Bexar County; Dan E. Patterson, Dallas County; Calvin Eugene Person, Dallas County; Miguel San Juan, Fort Bend County.

To be Members of the STATE COMMITTEE OF EXAMINERS FOR SPEECH PATHOLOGY AND AUDIOLOGY: Mrs. Susan Gay Dorsett, Erath County; Mrs. Marilyn S. Duncan, Dallas County; Mrs. Sandra Carson Waters, Harris County.

#### MESSAGE FROM THE HOUSE

House Chamber  
May 10, 1989

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

**S.B. 873**, Relating to the Texas Engineering Experiment Station.

**S.B. 1504**, Relating to family violence shelters. (As amended)

**S.B. 907**, Relating to the creation, administration, powers, duties, operation and financing of hospital districts; authorizing a tax; granting the authority to issue bonds; and granting the power of eminent domain. (As amended)

**H.B. 344**, Relating to changing terminology in the Election Code from "absentee voting" to "preelection day voting."

**H.B. 427**, Relating to airport law enforcement officers commissioned as peace officers.

**H.B. 524**, Relating to punishment for the offense of theft if the property stolen is a firearm.

**H.B. 715**, Relating to the composition of the board and to the continuation and functions of the Texas Guaranteed Student Loan Corporation.

**H.B. 832**, Relating to the authority of a peace officer from another state to pursue into this state and arrest a person who committed a felony in the other state.

**H.B. 908**, Relating to the water quality standards established by the Texas Water Commission.

**H.B. 1031**, Relating to the litigation bond requirement on automated information and telecommunication contracts with the State.

**H.B. 1118**, Relating to the selection of a licensed psychologist by a recipient under the Medical Assistance Program.

**H.B. 1147**, Relating to exempting State personnel on State business from hotel occupancy taxes.

**H.B. 1272**, Relating to a temporary alcoholic beverage permit for certain private club activities.

**H.B. 1329**, Relating to review by the Texas Water Commission of certain permitted but unconstructed storage reservoirs.

**H.B. 1701**, Relating to the polygraph examination of a complainant of a violent offense.

**H.B. 2304**, Relating to ad valorem tax abatement by a conservation and reclamation district.

**H.B. 2566**, Relating to the teacher career ladder.

**H.B. 2644**, Relating to the sunset review of the Texas Industrialized Building Code Council.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### SENATE RESOLUTION 587

Senator Brown offered the following resolution:

WHEREAS, Today, May 10, 1989, the Texas Senate pauses amid the frantic pace of the closing days of the 71st Legislature to honor all former members of this august body; and

WHEREAS, The current members proudly and publicly acknowledge and pay tribute to the service of all former senators and lieutenant governors and to their contributions to the life and traditions of the Texas Senate; and

WHEREAS, The Texas Senate has been privileged to have many wise and skillful lawgivers and presidents in its 143-year history who have worked to meet the needs of the citizens and to accept the challenges of their times; and

WHEREAS, Steeped with a colorful history, sometimes raucous, sometimes controversial, but never dull, the Texas Senate has evolved into a group of hardworking men and women, struggling with the pressing issues that confront this fast-growing, restless, ever-changing state; and

WHEREAS, Without the dedication of purpose and careful attention to the matters of state by our members, the society we know will weaken and falter; and

WHEREAS, It is appropriate that the Texas Senate recognize these distinguished men and women who have served with integrity and distinction as members of this body; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 71st Legislature, hereby extend a hearty "Welcome Home!" to all former members and lieutenant governors visiting in the Senate today; and, be it further

RESOLVED, That the Senate Rules relating to admission to the Senate Chamber be suspended and that all former members and lieutenant governors be extended privileges of the floor this day; and, be it further

RESOLVED, That the Senate of the State of Texas hereby express gratitude and appreciation to all those who have served in this revered chamber and proudly raised their voices for the people of Texas.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Brown, the resolution was adopted viva voce vote.

**THE PRESIDENT:** It's an honor to welcome to this Chamber today so many distinguished former Senators. There are 51 former Senators as well as the current 31 Senators, and this is a grand occasion. Represented here today are more than 400 years of total Senate service. The dates of service range from 1937, when Senator J. Manley Head came to the Senate, to 1989, when Senators Roy Blake, Grant Jones and Richard Anderson joined the ranks of distinguished former Senators, thanks to some of the current Senators.

There is little doubt that this record of service is unmatched in the history of Texas. The Senators gathered here today helped lead Texas through war years, helped manage the State through the explosive growth of the 1950's; you governed during the turbulent 1960's and during the boom years of the 1970's. You fought to keep the Texas economy alive during the recession of the 1980's. When Senator Head joined the Senate in 1937, Texas was a proud but primarily rural state, Senator Sims. We earned our wealth from oil, gas and agriculture, and over the last five decades we have become a state dominated by its urban populations.

Our future depends on our economic diversity. We have become internationally known for our world-class universities. We've turned our failures into opportunities and our opportunities into successes, and those of you here today deserve much of the credit for having the vision to see what Texas could become and for having the political will to see that vision become a reality. I applaud each of you. You have earned the respect and gratitude of all Texans who have been fortunate to benefit from your commitments to Texas.

Before I introduce our honored guests, I'd like to take a moment to announce the monumental undertaking that will make the history of the Texas Senate available to all of you here today; indeed, to all Texans. The Texas A&M University Press will soon publish the first of a planned five-volume series entitled The Texas Senate. This history has been researched, written and edited by the Senate Enrolling and Engrossing Clerk, Patsy Spaw, and the staff of the E&E Office. They are to be congratulated. Their thorough and readable work should give Texans a great deal of insight into the workings of the Texas Senate and its colorful history.

This idea was born in the mind of Senator Chet Edwards shortly after he came to the Senate. He wanted to know if there was a history of the Texas Senate, and there was none. He felt there should be one, and it was Chet's original idea.

I'd also like to congratulate Texas A&M University President, Bill Mobley, and the A&M Press Director, John F. Stetter, for their contributions to this historical work.

As is pointed out in Part One of this work, the first Congress of the Republic of Texas convened on October 3, 1836, in Columbia. They met in a large dog-trot house that, to quote a description of the time, was "meager in every respect." There were 14 Senators. As the Senate history points out, they were amazed at the circumstances that brought them together and fearful of the impermanence of their offices. That was 153 years ago, but I'd guess that the 31 Senators convened here today remain amazed at their circumstances and fearful of the impermanence of their offices. However desperate those circumstances, you aren't balanced on the untested legs of a new republic, a republic that had won its independence at San Jacinto only months before.

Listen to a historian's account of that first session: "The labors of the First Congress demanded the highest exercise of wisdom and prudence. They were Herculean in magnitude, involving the enactment of primary laws, embracing within their scope the entire machinery of civil government under a written Constitution. Not only were the general principles pertaining to such a form of government to be securely embedded in the laws, but the rights of the individual citizenship defined and protected. These grave responsibilities, embarrassed by the confusion incident to the times, were met with a wisdom that challenges the admiration of aftertimes." Here, the first Senate and the first Congress are described in terms that apply to every Senate that has followed. This body has met with each and every challenge to wisdom.

And to the former and present Senators here today, I would say that your work has earned the admiration of aftertimes.

Now, before we continue the program, I would like to introduce our Enrolling and Engrossing staff, the people who have made this history of the Senate possible. First of all, Patsy Spaw, whom you all know and have already met; Nancy Alliegro; Kelley Burcham; Stephanie Fariss; Robert Henderson; Mary Hobart Key; Patty Michels; Virginia Townsend; Heather White; and Kathryn Williams. All of you deserve our thanks and congratulations for a job well done.

There's one more person, the Secretary of the Senate, Betty King, without whom there would not be a history of the Senate, and there probably wouldn't be a Senate.

The Senator from Harris.

SENATOR BROOKS: Mr. President, I wondered if I might respectfully ask the President to verify or clear up something that's been buzzing around the Floor here.

THE PRESIDENT: State your inquiry.

SENATOR BROOKS: Out of the five volumes, is it true that four of them are Schwartz speeches?

THE PRESIDENT: Senator, I yield to the orator of the day, Senator Babe Schwartz.

SENATOR SCHWARTZ: Senator, I didn't know I was going to get that great introduction from my Dean. A lot of you folks don't know it, and particularly the Gallery doesn't know it, but when I got beat by my savior, Buster Brown, who is the author of this resolution and whom I hold in highest esteem—Buster, you are everything to me for putting me where I am today, believe me. Now, I know every ex-Senator doesn't feel that way about every present Senator who may be occupying a seat which they cherished at one time, but I can gratefully tell you that you don't cherish it very long if you find something . . . well, if you find something to do that you like. I remember a Senate that's vastly different from the Senate today, and I'm going to talk about it briefly.

I rose on the Senate floor one day a long time ago when I didn't really know that this editor of the The Houston Post, who had become Lieutenant Governor, was the literate person he was, with this high intelligence quotient that we would have to deal with, as a leader. And I rose and I said, "Mr. President, can I speak briefly on this issue?" He looked down at me and said, "Senator, you may speak briefly on this issue, but I doubt if you can." I knew then I was in for a lot of correction in my day. The other day he called me and asked me if I'd speak on this occasion, and it's true; he called and said, "Babe, I'd like you to make a few



remarks on the occasion of this great reunion of the old-timers, very old-timers," and I said, "What would you like me to speak about, Governor?" And he said, "About 10 minutes." He has got me pegged.

The new Senate is a good Senate, and I'm glad that Temple Dickson and Senator Carriker have carried on the tradition of members who come from the House to the Senate and raise the average IQ of both bodies. There's a lot to be said about the infusion of House members in the Senate. In my day, I came to the Senate and didn't think too much of the Senate, but some of the real old-timers understand and appreciate that when I came over here in 1960 I was not thrilled with what I found.

Some of these friendships that are so near and dear to us today were forged in a sort of a crucible of boiling water, or boiling something, in a test tube. In those days I used to comment that the chaplain prayed every morning, and a little boy was heard to say in the Gallery one day, to his father, "Father, does the chaplain pray for the Senate every day?" And the father said, "No, son, the chaplain looks out over the Senate and prays for the people of Texas every day." And I felt that way about the Senate, and I grew to feel more and more that way about the Senate the longer I stayed.

But the truth is that the Senate does forge some friendships that can't be forged anyplace else. It forges character that can't be forged anyplace else. I think in this crucible people come to this body and they are different than when they leave. When they come, they come to find their place in a society that they want to serve, and to leave some legacy that they want to be remembered by, and they change. There's a tempering of steel by heating and cooling and by dipping and by covering, sometimes with all sorts of liquids, as a cool. There's a forging in that process and a tempering of that steel which brings about a keen edge that you can't get any other way. The men and women of this body have, by and large, become those kind of people because of their service in this body.

I never said that I left liking them all, and I never have said that I loved the Senate, as Miss Minnie, who was the Journal Clerk when I came to the Senate, said I would say some day. She said, "Before you die, you will say you love the Senate." And I said, "Miss Minnie, I'll always say that there are some members of the Senate whose friendship and whose association I love and cherish, but the Senate is just an organization; it's a deliberative body; it's a place where you can serve a purpose, but you don't have to love the Senate." What you have to love is the achievement of the Senate, if people have the capability of bringing that achievement about. If they can forge those friendships and out of those friendships forge some good for the people of Texas.

What I said today that I wanted to leave as a thought about this day—and I wish I could call the names of all the people who I've come to respect and admire in this new Senate—because I do think it's different. I've said two things: I've said that if I had a warning when I came to the Senate, I would have warned that there was too much acrimony in the Senate, too much bitterness, too many people hated each other and hated other people. You've got to remember that in 1955 the House was composed of a substantial portion of racists and bigots and people whose aim and purpose in those years was to keep this country divided, and to keep two classes of citizenship alive in this country so that people could not prosper unless they were of a certain class, and unless they had certain rights and certain opportunities, which some people held were different than the rights and opportunities of other people. That changed.

If I had a warning today about the Senate—and I've said it time and time again—that warning would be, perhaps we're all too friendly. Perhaps we're so

friendly with each other and we like each other so much and we respect and admire each other so much that we're afraid to get into the fights that need to be fought, and the battles that need to be had here on the Senate Floor. If blood's got to flow—figuratively, on the Senate Floor—in order to forge those issues correctly, and if Parker's got to get mad again in his lifetime, as he has before—and I can guarantee you, the Senator from Jefferson can do that—and he can rise to that occasion, and somebody else has got to come over here with a different viewpoint, and battle it out on the Senate Floor.

And if somebody's got to break Bill Meier's filibuster record, then it has to occur here on the Senate floor, because this is the last great deliberative body there is in this State, and it still has that potential, and my fear for the future is that you may all be too friendly.

Now the great legacy that Lieutenant Governor Bill Hobby leaves, and it's the last thing I'll say, is that he opened up this Senate so that it can be what it is today. He made this Senate a place where the public is welcome. He made it an open body. He was my first witness against secrecy in the Senate. In the good old days of the good old boys, this was a club to which you couldn't belong unless the good old boys decided they wanted you to belong, and I was not a good old boy, and didn't want to be a good old boy, and I decided at one point in time that I didn't like the idea that secrecy prevailed in the processes of the Senate. And so Bill Hobby came without knowing who I was and how goofy I was and what I might lead him into. And I led him into testifying for the rules changes which said, you can't have secret sessions of the Nominations Committee of the Texas Senate.

Senator Edwards is going to be the chairman some day, and he's going to want to do it in the white heat of day. He's going to get the light shining down on the public process and examine people, along with other members of the Senate, as to their character and qualifications, and when it's done, the Senate will examine and discuss them in public. And when that's done, the Senate will vote in public. Yes, they'll vote "aye" and "no" as the roll is called, and they won't hide behind the closed doors of the Texas Senate. I got Bill Hobby into that trap, although he was making those speeches before I knew there was a Senate. Not that you're older than I am, Bill, but you certainly were for that principle of open government.

And Chet Brooks was coming along with Open Records laws to open up the rest of the government, and the Texas Senate was still a club and a secret body. And Ben Barnes got elected and he carried that torch and permitted me to be Rules Chairman, and we followed those changes in the rules. And after Ben Barnes, when Bill Hobby became Lieutenant Governor, the last stake was driven in the heart of secrecy in the Texas Senate, and the Texas Senate became a body that belonged to the people of Texas. Their actions belong to the people of Texas, and forever the people of Texas would know what each and every Senator did on every issue, on every vote.

And that's how the Hance Award came about. Do you know what the Hance Award is? I was reminded again the other day. The Hance Award is that award that a Senator gets for having the bill that achieves the smallest number of votes in the Senate every session. And some lucky devil will get it. And Senator Brown and Senator Edwards, there'll be times when 29 people tell you they're going to vote for your bill, and 29 people tell the other Senator they're going to vote against it.

I was reminded this morning about the telephone call that one Senator got from a Governor, and he just turned white listening to the Governor on the telephone telling him what a terrible thing he'd done, and what a terrible Senator he was, and how bad he was, and he was almost shaking on the Senate Floor. And another

Senator walked over to him when the conversation was over and said, "Senator, I've never seen you that disturbed. What happened?" He said, "That was the Governor, raising Cain with me for voting against his bill." And he said, "Well, what's the matter with that? I voted against the Governor's bill." And the Senator said, "Yeah, but you didn't lie to him."

Well, remember that as the last thing I said. It pays to be truthful. This is a place of your word, and your word is your bond, but the thing that I want to remember most about the Senate is that Bill Hobby made it what it is today and what I think it always will be—that is, the People's Senate—and truly the greatest deliberative body that this State has ever seen. It will continue to be that if we have that kind of leadership in the future. Thank you.

THE PRESIDENT: Babe, thank you very much. I would only like to take exception to one thing that you said. You said that if somebody has to break Bill Meier's filibuster record, then that has to be done; how about not in the next three weeks?

I would like to introduce the former Senators that are here today, and I will introduce them in the order of seniority—that is, in the order that they took the oath of office.

The senior former Senator here today is Senator J. Manley Head. Manley, will you stand up? Manley served for four years, took the oath in 1937.

T. C. Chadick—Senator Chadick—served for eight years in the Senate and took the oath in 1941.

In 1943, G. C. Morris served in the Senate, from Greenville. Senator Morris was President Pro Tempore of the Senate at the time that Governor Jester died and Lieutenant Governor Shivers succeeded to the office, so G. C. Morris was Acting Lieutenant Governor of this State for a period of time.

In 1944, Jim Taylor—Jim, where are you?—served for five years.

In 1949, George Nokes represented Waco for four years.

In 1953, Johnnie B. Rogers came to the Senate, representing Austin, and served for four years.

Doyle Willis, representing Fort Worth, served for 10 years. Doyle, Johnnie?

In 1954, Frank Owen from El Paso came to the Senate; represented El Paso for 11 years—Frank?

In 1955, Ray Roberts came to the Senate, served for six years, then went on, took a demotion, and served in the United States Congress after that, right?

In 1957, Charlie Herring came to the Senate, representing Austin, and served for 16 years. Then a fellow named Preston Smith also came that same year. Governor, Charlie?

Then in 1959, Babe Schwartz, whom you may recognize, came and served for 22 years. Thank you, Babe. Served 22 years and didn't get to be Dean of the Senate in that time.

In 1961, Galloway Calhoun from East Texas came and served for six years. And Galloway was—you told me, Galloway, once—that you were the first Parliamentarian of the Senate because Preston asked you to come up and sit by him and help him out for a few weeks.

I tell you, '61 was a bad year. In addition to Galloway, Tom Creighton came and served for 20 years, Bill Patman for 20 years, Franklin Spears for six years.

In 1963, Roy Harrington from Beaumont came and served 14 years. Don Kennard from Fort Worth for 10 years; Walter Richter for three years, J. P. Word for 10 years—would you all rise?

In 1965, Jack Hightower came, representing the Panhandle district, served for eight years; Pete Snelson came and served for 16 years.

Boy, but 1967 was a bad year. Joe Christie from El Paso came and he served for six years until he had the bad judgment to run for Lieutenant Governor against whoever. But it was worse than that, that's the good news. The bad news is that's when Oscar Mauzy came and served for 20 years. Joe, Oscar . . . In 1971, the silent man of the Senate, Glenn Kothmann, arrived and served for 16 years; Max Sherman came that year and served for six years, and Jim Wallace, who was our chaplain today, served for four years.

1973 was a vintage year. All kinds of good things happened in 1973. There was a new Lieutenant Governor that year who vowed to be a good Lieutenant Governor, honestly. But at that same time, Don Adams served for four years, Ron Clower served for eight, Lloyd Doggett for 12, Bob Gammage for three, Grant Jones for 16, Raul Longoria for eight, Mike McKinnon for four—I haven't seen Mike, I don't know whether he's here or not—Peyton McKnight for 10 years, Bill Meier for 10 years, Jack Ogg for 10 years, John Traeger for 14, Nelson Wolff for two years.

In 1975, Ray Farabee came to the Senate and served for 13 years.

In 1978, came Roy Blake for 11 years and Bob Price for three years.

In 1979, we first met Ed Howard, who served for seven years, and E. L. Short, who served for four.

In 1981, Mike Richards came, served for two years. Mike? In 1982, John Sharp came and served for five years. Commissioner? And in 1986, came Richard Anderson, who served for three years. Would you all stand, and be welcomed by the Senate.

There aren't many former Lieutenant Governors left around this State. One of them has already been introduced—Preston Smith, a former Senator and former Governor. My predecessor, who taught me all I knew then, Ben Barnes.

I'd now like to present to you the President of Texas A&M University, Dr. William H. Mobley. Bill Mobley is helping make Texas A&M one of the finest institutions of higher education in the nation. And he's also been instrumental in the publication of the history of the Texas Senate. Please welcome Bill Mobley.

**DR. MOBLEY:** Lieutenant Governor Hobby, it's a distinct honor to join you this morning in announcing the forthcoming publication of the Texas Senate—a meticulous, momentous, monumental five-volume history of this great institution, to be published by the Texas A&M University Press. The volume, as previously noted, is being written by members of the Senate Engrossing and Enrolling Department, edited by Enrolling Clerk Patsy Spaw, under the direction of Secretary of the Senate, Betty King; with Texas A&M University Press leadership being provided by Press Director John Stetter and Editorial Director Noel Parsons, who is with us today. Noel, may we recognize you? And with a splendid introduction to this history being authored by the Lieutenant Governor, the Honorable William P. Hobby.

All great institutions have their pronouncements, their proceedings, their processes, their publications, and particularly their people, committed to posterity by the diligent work of historians and good writers. The Texas Senate, an institution

with roots in October of 1836, deserves a carefully documented history. The commemorative poster that is on your desk, and is displayed here to your right, is but a very small sample of the rich history of this body, and thus, of the rich history of the Republic and the State of Texas. Texas A&M University is the oldest public university in the State, and the Texas A&M University Press, with a long history of important historical publications, is honored to be the publisher of this seminal work.

Governor Hobby, I must tell you that some of your former colleagues last evening told some tales, which might be classified as history, which probably will have to be reserved for a Members Only volume. But many, many other comments and observations already captured by the staff in the early drafts, and to be further documented in forthcoming volumes, will help establish for all time, for students, for historians and for the general public, the great work done by this institution. It's an honor to extend my best wishes today to the current Senators, to those previous Senators and Lieutenant Governors assembled today, and to all who have literally, by your work here today and in the past, made the history of Texas through this great institution, the Texas Senate. We look forward, on the opening day of the 72nd Session, to having available Volume I of the five-volume History of the Texas Senate.

THE PRESIDENT: In addition to the former Senators who are with us today, there are flowers in the Senate Chamber commemorating three former Senators who are no longer with us. There are flowers here in memory of Senator Jep Fuller from Port Arthur, put here by Mr. and Mrs. Jim Vollers; in memory of Senator Grady Hazelwood from Amarillo, by Senator and Mrs. Bill Patman; and in memory of Senator Will Martin and Senator Crawford Martin from the Waco and Hillsboro area, by their children and grandchildren. Sherry Martin Hill, Nancy Martin Marroquin, and Jim Martin.

The Chair will accept a highly privileged motion.

#### AT EASE

On motion of Senator Brooks, the Senate at 10:45 a.m. stood At Ease pending the departure of guests.

#### IN LEGISLATIVE SESSION

The President called the Senate to order as In Legislative Session at 11:06 a.m.

#### BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the captions had been read, the following enrolled bills and resolutions:

S.C.R. 5	S.B. 815
S.C.R. 51	S.B. 886
S.C.R. 144	S.B. 898 (Signed subject to Art. III, Sec. 49a of the Constitution)
S.B. 499	S.B. 899 (Signed subject to Art. III, Sec. 49a of the Constitution)
S.B. 537	
S.B. 540	
S.B. 571	S.B. 938
S.B. 689	S.B. 950
S.B. 716	S.B. 1045
S.B. 784	S.B. 1049
S.B. 793	S.B. 1115
S.B. 794	S.B. 1223
	S.B. 1350

**GUEST PRESENTED**

Senator Armbrister was recognized and presented Dr. Bert Garrett of La Grange.

The Senate welcomed Dr. Garrett, a participant in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, and expressed appreciation for his contributions today.

**MESSAGE FROM THE HOUSE**

House Chamber  
May 10, 1989

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

**S.B. 413**, Relating to the form and effect of a loan agreement. (As substituted and amended)

**S.C.R. 82**, Authorizing the issuance of Texas Public Finance Authority revenue bonds to finance the construction of a new warehouse for State Purchasing and General Services Commission.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

**SENATE RESOLUTION 616**

Senator Caperton offered the following resolution:

**S.R. 616**, Congratulating Jon Peters on becoming the winningest pitcher in the history of American high school baseball and offering special commendation for his academic accomplishments.

The resolution was read and was adopted viva voce vote.

**GUESTS PRESENTED**

At the President's request, Senator Caperton escorted Jon and his parents, Ruth and Valgene Peters, to the President's Rostrum.

The Senate extended congratulations to this accomplished young man and welcomed him and his parents.

**HOUSE BILL AND RESOLUTION ON FIRST READING**

The following bill and resolution received from the House were read the first time and referred to the Committee indicated:

**H.B. 2115**, To Committee on State Affairs.

**H.J.R. 33**, To Committee on Finance.

**SENATE BILLS AND RESOLUTION ON FIRST READING**

On motion of Senator Parker and by unanimous consent, the following bills and resolution were introduced, read first time and referred to the Committee indicated:

**S.R. 615** by Parker Administration  
Directing the Senate Committee on Jurisprudence to conduct a study of State law relating to the blood and organ donation industry.

**S.B. 1819** by Haley Jurisprudence  
Relating to the County Court at Law of Anderson County.

**S.B. 1820** by Carriker Intergovernmental Relations  
Relating to the authority of a municipality to engage in economic development programs.

**S.B. 1821** by Henderson Health and Human Services  
Relating to community homes for disabled persons.

**S.B. 1823** by Dickson Criminal Justice  
Relating to the weapons that may not be taken onto the premises of a school, polling place, or government office.

**S.B. 1824** by Dickson Natural Resources  
Relating to the membership and election of the Fox Crossing Water District board of directors.

**S.B. 1825** by Washington Jurisprudence  
Relating to persons who are authorized to conduct marriage ceremonies.

**S.B. 1826** by Carriker Intergovernmental Relations  
Relating to authorizing members of the board of trustees of a junior college district to be elected from single-member trustee districts.

**S.B. 1827** by Uribe Economic Development  
Relating to receiverships for certain savings and loan associations.

**S.B. 1828** by Sims Finance  
Relating to exempting certain motor vehicles used by certain licensed child-care facilities from taxes on the sale, use, or rental of motor vehicles.

#### **CO-AUTHOR OF SENATE BILL 1678**

On motion of Senator Brooks and by unanimous consent, Senator Bivins will be shown as Co-author of **S.B. 1678**.

#### **CO-AUTHORS OF SENATE BILL 1721**

On motion of Senator Zaffirini and by unanimous consent, Senators Brooks and Lyon will be shown as Co-authors of **S.B. 1721**.

#### **CO-AUTHORS OF SENATE BILL 1722**

On motion of Senator Zaffirini and by unanimous consent, Senators Brooks and Lyon will be shown as Co-authors of **S.B. 1722**.

#### **CO-SPONSOR OF HOUSE BILL 1888**

On motion of Senator Krier and by unanimous consent, Senator Johnson will be shown as Co-sponsor of **H.B. 1888**.

#### **MESSAGE FROM THE SUPREME COURT OF TEXAS**

The following Message from Chief Justice Thomas R. Phillips, Supreme Court of Texas, was read and was referred to the Committee on Nominations.

THE SUPREME COURT OF TEXAS

May 10, 1989

To the Senate of the Seventy-First Texas Legislature:

The Supreme Court of Texas has made the following appointments which require the advice and consent of the Senate:

To the Board of Directors of the State Bar of Texas (Texas Government Code Sec. 81.020(c)):

Honorable Christine Hernandez of San Antonio

Honorable Jack Hammond of El Paso (appointed from five names submitted by the Governor).

Each appointment is for a term of three years, expiring in 1992.

The advice, consent and confirmation of the Senate is requested.

Sincerely,

/s/Thomas R. Phillips  
Thomas R. Phillips  
Chief Justice

**SENATE CONCURRENT  
RESOLUTION 23 WITH HOUSE AMENDMENT**

Senator Brown called **S.C.R. 23** from the President's table for consideration of the House amendment to the resolution.

The President laid the resolution and the House amendment before the Senate.

**Committee Amendment - A. Smith**

Amend **S.C.R. 23** by adding on line 9, page 2, the following:

"WHEREAS, The State Department of Highways and Public Transportation has demonstrated a level of expertise in telecommunication unequaled in state government; and"

Move the remaining lines forward and add between the words "Council" and "And" on line 17, page 2 the following:

" , the State Department of Highways and Public Transportation"

And add between the words "council" and "And" on line 21, page 2 the following:

" , department"

Adjust all lines accordingly.

The amendment was read.

On motion of Senator Brown and by unanimous consent, the Senate concurred in the House amendment to **S.C.R. 23** viva voce vote.

**SENATE BILL 647 WITH HOUSE AMENDMENTS**

Senator Truan called **S.B. 647** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.



**Committee Amendment - T. Hunter**

Amend **S.B. 647** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 104.91, Education Code, is amended to read as follows:

Sec. 104.91. **ESTABLISHMENT; SCOPE.** (a) The board is authorized and directed to establish and maintain a fully state-supported coeducational institution of higher learning to be known as Texas A&M University at Corpus Christi [~~State University~~]. The site for the institution shall consist of at least 200 acres of land and shall be provided for the institution at no cost to the state.

(b) The board, with the approval of the Texas Higher Education Coordinating Board, may prescribe courses leading to customary degrees as are offered at leading American universities and may award those degrees, including baccalaureate, master's, and doctoral degrees and their equivalents. [The institution shall be organized to accept only junior, senior, and graduate-level students, with at least 60-semester hours of accredited college or university study.]

SECTION 2. Section 104.93(a), Education Code, is amended to read as follows:

(a) The board may accept and administer upon terms and conditions satisfactory to it grants or gifts of property, including real estate and/or money that may be tendered to it in aid of the planning, establishment, conduct, and operation of Texas A&M University at Corpus Christi [State University], and in aid of research and teaching at the university.

SECTION 3. Chapter 104, Education Code, is amended by adding Section 104.94 to read as follows:

Sec. 104.94. **ADMISSION STANDARDS.** Admission standards at Texas A&M University at Corpus Christi for freshman- and sophomore-level students must be comparable to the admission standards for freshman- and sophomore-level students at public senior colleges and universities that are members of the Southwest Conference.

SECTION 4. (a) Texas A&M University at Corpus Christi may not offer freshman and sophomore courses until the fall semester 1994.

(b) Freshman enrollment at Texas A&M University at Corpus Christi shall be limited to:

- (1) 400 students for 1994; and
- (2) 500 students for 1995, unless a total enrollment increase of 300 or more students occurs between the fall semester of 1993 and the fall semester of 1994 at Texas A&I University and at Del Mar College.

SECTION 5. This Act takes effect on the date that Senate Bill No. 122, Acts of the 71st Legislature, Regular Session, 1989, takes effect. If that bill does not take effect, this Act has no effect.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

**Floor Amendment - Cavazos, Berlanga, T. Hunter, Rangel and Earley**

Amend **C.S.S.B. 647** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 104.91, Education Code, is amended to read as follows:

Sec. 104.91. **ESTABLISHMENT; SCOPE.** (a) The board is authorized and directed to establish and maintain a fully state-supported coeducational institution

of higher learning to be known as Corpus Christi State University. The site for the institution shall consist of at least 200 acres of land and shall be provided for the institution at no cost to the state.

(b) The board, with the approval of the Texas Higher Education Coordinating Board, may prescribe courses leading to customary degrees as are offered at leading American universities and may award those degrees, including baccalaureate, master's, and doctoral degrees and their equivalents. [The institution shall be organized to accept only junior, senior, and graduate-level students, with at least 60-semester hours of accredited college or university study.]

SECTION 2. Chapter 104, Education Code, is amended by adding Sections 104.94 and 104.95 to read as follows:

Sec. 104.94. ADMISSION STANDARDS. Admission standards at Corpus Christi State University for freshman- and sophomore-level students must be comparable to the admission standards for freshman- and sophomore-level students at public senior colleges and universities that are members of the Southwest Conference.

Sec. 104.95. LIMITATIONS; APPROPRIATIONS. (a) Corpus Christi State University may not offer freshman and sophomore courses until the fall semester, 1994.

(b) Freshman enrollment at Corpus Christi State University shall be limited to:

(1) 400 students for 1994; and

(2) 500 students for 1995, unless a total enrollment increase of 300 or more students occurs between the fall semester of 1993 and the fall semester of 1994 at Texas A&I University and at Del Mar College.

SECTION 3. EFFECTIVE DATE. This Act takes effect September 1, 1989.

SECTION 4. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendments were read.

On motion of Senator Truan and by unanimous consent, the Senate concurred in the House amendments to S.B. 647 viva voce vote.

#### SENATE BILL 402 WITH HOUSE AMENDMENT

Senator Zaffirini called S.B. 402 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

#### Floor Amendment on Third Reading - Richardson

Amend S.B. 402 on page 1, between lines 12 and 13, by inserting a new Section 2 of the bill to read as follows and by renumbering the existing Section 2 of the bill and subsequent sections appropriately:

SECTION 2. Section 79.005(c), Human Resources Code, is amended to read as follows:

(c) The clearinghouse may also receive information about missing children from the Public Education Information Management System of the Central Education Agency and from school districts.

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to S.B. 402.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**SENATE BILL 583 WITH HOUSE AMENDMENT**

Senator Zaffirini called **S.B. 583** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**Floor Amendment on Third Reading - H. Cuellar**

Amend House Committee Report, first printing, **S.B. 583** as follows:

On page 1, line 7, strike "The board shall move to establish a graduate school of international trade at Laredo State University." to substitute "Subject to the approval of the governing board of Laredo State University and the Texas Higher Education Coordinating Board, a graduate school of international trade at Laredo State University shall be established."

The amendment was read.

On motion of Senator Zaffirini and by unanimous consent, the Senate concurred in the House amendment to **S.B. 583** viva voce vote.

**SENATE BILL 152 WITH HOUSE AMENDMENTS**

Senator Barrientos called **S.B. 152** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

**Committee Amendment - Schoolcraft**

Amend **S.B. 152** on page 2, line 16, after the word "grades," by changing the number "7" to number "1".

**Floor Amendment - Glossbrenner**

Amend **S.B. 152**, SECTION 1. Section 11.205(c) by striking lines 21 through 24 on page 2 and inserting the following:

public. Districts are not required to prepare a dropout reduction plan if fewer than five percent of their students are identified as "at risk" of dropping out of school unless the district had 100 or more students drop out of school in the preceding school year.

The amendments were read.

Senator Barrientos moved to concur in the House amendments to **S.B. 152**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**SENATE BILL 29 WITH HOUSE AMENDMENTS**

Senator Barrientos called **S.B. 29** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

**Committee Amendment - Ovard**

Amend **S.B. 29** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 2(a), Chapter 425, Acts of the 56th Legislature, Regular Session, 1959 (Article 4476-14, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The term "dangerous drug" means any drug or device that is not included in Schedules I through V or Penalty Groups I through IV of the Texas Controlled

Substances Act (Article 4476-15, Vernon's Texas Civil Statutes) and that is unsafe for self-medication, and includes any drug, including an anabolic steroid and a human growth hormone, or any device which bears or is required to bear the legend: Caution: federal law prohibits dispensing without prescription, or the legend: Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian.

SECTION 2. Subdivision (7), Section 1.02, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

(7) "Deliver," [or] "delivery," or "drug transaction" means the actual or constructive transfer from one person to another of a controlled substance, counterfeit substance, abusable glue or aerosol paint, or drug paraphernalia, whether or not there is an agency relationship. For purposes of this Act, it also includes an offer to sell a controlled substance, counterfeit substance, abusable glue or aerosol paint, or drug paraphernalia. Proof of an offer to sell must be corroborated by a person other than the offeree or by evidence other than a statement of the offeree.

SECTION 3. Subdivision (15), Section 1.02, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

(15) "Drug paraphernalia" means equipment, a product, or a material of any kind that is used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, or concealing a controlled substance in violation of this Act or in injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this Act. It includes, but is not limited to:

(A) a kit used or intended for use in planting, propagating, cultivating, growing, or harvesting any species of plant that is a controlled substance or from which a controlled substance can be derived;

(B) a material, compound, mixture, preparation, or kit used or intended for use in manufacturing, compounding, converting, producing, processing, or preparing a controlled substance;

(C) an isomerization device used or intended for use in increasing the potency of any species of plant that is a controlled substance;

(D) testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness, or purity of a controlled substance;

(E) a scale or balance used or intended for use in weighing or measuring a controlled substance;

(F) a diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose, or lactose, used or intended for use in cutting a controlled substance;

(G) a separation gin or sifter used or intended for use in removing twigs and seeds from or in otherwise cleaning or refining marihuana;

(H) a blender, bowl, container, spoon, or mixing device used or intended for use in compounding a controlled substance;

(I) a capsule, balloon, envelope, or other container used or intended for use in packaging small quantities of a controlled substance;

(J) a container or other object used or intended for use in storing or concealing a controlled substance;

(K) a hypodermic syringe, needle, or other object used or intended for use in parenterally injecting a controlled substance into the human body; and

(L) an object used or intended for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, such as:

(i) a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without a screen, permanent screen, hashish head, or punctured metal bowl;

- (ii) a water pipe;
- (iii) a carburetion tube or device;
- (iv) a smoking or carburetion mask;
- (v) a chamber pipe;
- (vi) a carburetor pipe;
- (vii) an electric pipe;
- (viii) an air-driven pipe;
- (ix) a chillum;
- (x) a bong; or
- (xi) an ice pipe or chiller.

SECTION 4. Subdivision (39), Section 1.02, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

(39) "Prescription" means an order by a practitioner to a pharmacist for a controlled substance for a particular patient which specifies the date of issue, the name and address of the patient or, if the controlled substance is prescribed for an animal, the species of the animal and the name and address of its owner, the name and quantity of the controlled substance prescribed with the quantity shown numerically followed by the number written as a word if the order is written, or if the order is communicated orally or telephonically, with the quantity given by the practitioner and transcribed by the pharmacist numerically, and directions for use of the drug.

SECTION 5. Section 2.03, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.03. SCHEDULE I. (a) Schedule I shall consist of the controlled substances listed in this section.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

- Alfentanil;
- Allylprodine;
- Alpha-methylfentanyl or another derivative of Fentanyl;
- Benzethidine;
- Betaprodine;
- Clonitazene;
- Diampromide;
- Diethylthiambutene;
- Difenoxin;
- Dimenoxadol;
- Dimethylthiambutene;
- Dioxaphetyl butyrate;
- Dipipanone;
- Ethylmethylthiambutene;
- Etonitazene;
- Etoxadine;
- Furethidine;
- Hydroxypethidine;
- Ketobemidone;
- Levophenacymorphan;
- Meprodine;
- Methadol;

Moramide;  
Morpheridine;  
Noracymethadol;  
Norlevorphanol;  
Normethadone;  
Norpipanone;  
Phenadoxone;  
Phenampromide;  
Phencyclidine;  
Phenomorphan;  
Phenoperidine;  
Piritramide;  
Proheptazine;  
Propерidine;  
Propiram;  
Tilidine;  
Trimeperidine.

(c) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

Acetorphine;  
Acetyldihydrocodeine;  
Benzylmorphine;  
Codeine methylbromide;  
Codeine-N-Oxide;  
Cyprenorphine;  
Desomorphine;  
Dihydromorphine;  
Drotebanol;  
Etorphine (except hydrochloride salt);  
Heroin;  
Hydromorphenol;  
Methyldesorphine;  
Methyldihydromorphine;  
Monoacetylmorphine;  
Morphine methylbromide;  
Morphine methylsulfonate;  
Morphine-N-Oxide;  
Myrophine;  
Nicocodeine;  
Nicomorphine;  
Normorphine;  
Pholcodine;  
Thebacon.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position, and geometric isomers):

4-bromo-2, 5-dimethoxyamphetamine (Some trade or other names: 4-bromo-2, 5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2, 5-DMA);

2, 5-dimethoxyamphetamine (Some trade or other names: 2, 5-dimethoxy-alpha-methylphenethylamine; 2, 5-DMA);

5-methoxy-3, 4-methylenedioxy amphetamine;  
 4-methoxyamphetamine (Some trade or other names:  
 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA);  
 1-methyl-4-phenyl-1, 2, 5, 6-tetrahydro-pyridine (MPTP);  
 1-methyl-4-phenyl-4-propionoxy-piperidine (MPPP, PPMP);  
 4-methyl-2, 5-dimethoxyamphetamine (Some trade and other names:  
 4-methyl-2, 5-dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP");  
 3, 4-methylene-dioxy methamphetamine (MDMA, MDM);  
 3, 4-methylenedioxy amphetamine;  
 3, 4, 5-trimethoxy amphetamine;  
 Bufotenine (Some trade and other names:  
 3-(beta-Dimethylaminoethyl)-5-hydroxyindole;  
 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,  
 N-dimethyltryptamine; mappine);  
 Diethyltryptamine (Some trade and other names: N, N-Diethyltryptamine,  
 DET);  
 Dimethyltryptamine (Some trade and other names: DMT);  
 Ethylamine Analog of Phencyclidine (Some trade or other names:  
 N-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl) ethylamine;  
 N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);  
 Ibogaine (Some trade or other names: 7-Ethyl-6, 6, beta, 7, 8, 9, 10, 12, 13,  
 -octahydro-2-methoxy-6, 9-methano-5H-pyrido [1', 2':1, 2] azepino [5, 4-b] indole;  
 tabernanthe iboga);  
 Lysergic acid diethylamide;  
 Marihuana;  
 Mescaline;  
 N-ethyl-3-piperidyl benzilate;  
 N-methyl-3-piperidyl benzilate;  
 Parahexyl (Some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9,  
 10-tetrahydro-6, 6, 9-tri-methyl-6H-dibenzo [b,d] pyran; Synhexyl);  
 Peyote, unless unharvested and growing in its natural state, meaning all parts  
 of the plant presently classified botanically as *Lophophora*, whether growing or not;  
 the seeds thereof; any extract from any part of such plant; and every compound,  
 manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or  
 extracts;  
 Psilocybin;  
 Psilocin;  
 Pyrrolidine Analog of Phencyclidine (Some trade or other names:  
 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP)  
 Synthetic equivalents of the substances contained in the plant, or in the  
 resinous extractives of *Cannabis*, and/or synthetic substances, derivatives, and their  
 isomers with similar chemical structure and pharmacological activity such as the  
 following:  
 delta-1 cis or trans tetrahydrocannabinol, and their optical isomers;  
 delta-6 cis or trans tetrahydrocannabinol, and their optical isomers;  
 delta-3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.  
 (Since nomenclature of these substances is not internationally standardized,  
 compounds of these structures, regardless of numerical designation of atomic  
 positions are covered.);  
 Tetrahydrocannabinols;  
 Thiophene Analog of Phencyclidine (Some trade or other names:  
 1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienyl Analog of Phencyclidine; TPCP).  
 (e) Unless specifically excepted or unless listed in another schedule, any  
 material, compound, mixture, or preparation which contains any quantity of the

following substances having a depressant or stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Fenethylamine;  
Mecloqualone;  
Methaqualone;  
N-ethylamphetamine; and  
Nitrazepam.

(f) Temporary listing of substances subject to emergency scheduling by the Federal Drug Enforcement Administration, and any material, compound, mixture, or preparation that contains any quantity of the following substances:

N,N-dimethylamphetamine (Some trade or other names: N,N.alpha-trimethylbenzeneethanamine; N,N.alpha-trimethylphenethylamine; including its salts, optical isomers, and salts of optical isomers);

4-methylaminorex;

3,4-methylenedioxy N-ethylamphetamine (Also known as N-ethyl MDA);

N-hydroxy-3,4-methylenedioxyamphetamine (Also known as N-hydroxy MDA).

SECTION 6. Section 2.07, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.07. SCHEDULE V. (a) Schedule V shall consist of the controlled substances listed in this section.

(b) Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 15 milligrams of opium per 29.5729 milliliters or per 28.35 grams;

(6) Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms [milligrams] of atropine sulfate per dosage unit.

SECTION 7. Subchapter 3, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended by adding Section 3.011 to read as follows:

Sec. 3.011. EXCEPTIONS. (a) This subchapter does not apply to an educational or research program of a private school, a school district, or a public or private institution of higher education. This subchapter does apply to a manufacturer, wholesaler, retailer, or other person who sells, transfers, or furnishes materials covered by this subchapter to those educational or research programs.

(b) The department and the Texas Higher Education Coordinating Board shall adopt a memorandum of understanding that establishes the responsibilities of the board, the department, and the public or private institutions of higher education in implementing and maintaining a program for reporting information concerning controlled substances, controlled substance analogues, chemical precursors, and



chemical laboratory apparatus used in educational or research activities of institutions of higher education.

(c) The department and the Central Education Agency shall adopt a memorandum of understanding that establishes the responsibilities of the agency, the department, private schools, and school districts in implementing and maintaining a program for reporting information concerning controlled substances, controlled substance analogues, chemical precursors, and chemical laboratory apparatus used in educational or research activities of those schools and school districts.

SECTION 8. Section 3.04(a), Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) A registration under Section 3.03 to manufacture, distribute, analyze, or dispense a controlled substance may be suspended, denied, or revoked in accordance with this Act upon a finding that the registrant:

(1) has furnished false or fraudulent material information in any application filed under this Act;

(2) has been convicted of a felony offense under any state or federal law relating to any controlled substance or convicted of any other felony;

(3) has had his registration or application for registration under the Federal Controlled Substances Act suspended, denied, or revoked to manufacture, distribute, analyze, or dispense controlled substances;

(4) has had his practitioner's license under the laws of this state suspended or revoked;

(5) has failed to establish and maintain effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels as provided by federal regulations or laws now in effect or hereafter promulgated;

(6) has willfully failed to maintain records required to be kept or has willfully or unreasonably refused to allow an inspection authorized by this Act; or

(7) has violated a provision of this Act or a rule adopted under this Act.

SECTION 9. Section 3.04, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended by adding Subsection (g) to read as follows:

(g) The Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) does not apply to a denial, suspension, or revocation of a registration under Subsection (a)(3) of this section.

SECTION 10. Section 3.07, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.07. **ORDER FORMS.** Controlled substances in Schedules I and II may not ~~[shall]~~ be ordered or distributed by a registrant to or from another registrant except ~~[only]~~ pursuant to an order form. Compliance with the provisions of federal law respecting order forms shall be deemed compliance with this section.

SECTION 11. Section 3.08(l), Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

(l) A pharmacist may not:

(1) dispense or deliver a controlled substance or cause a controlled substance to be dispensed or delivered under the pharmacist's direction or supervision except under a valid prescription and in the course of professional practice: ~~[or]~~

(2) fill a prescription that is not prepared or issued as prescribed by this Act;

(3) permit or allow a person who is not a licensed pharmacist or pharmacist intern to dispense, distribute, or in any other manner deliver a

controlled substance even if under the supervision of a pharmacist, except that after the pharmacist or pharmacist intern has fulfilled his professional and legal responsibilities, a nonpharmacist may complete the actual cash or credit transaction and delivery; or

(4) permit the delivery of a controlled substance to any person not personally known to the pharmacist or the pharmacist intern without first recording on the prescription the number of the driver's license or state issued identification card that contains a photograph of the person taking possession of the controlled substance.

SECTION 12. Section 3.08, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended by adding Subsection (n) to read as follows:

(n) A prescription for a controlled substance must show:

(1) the quantity of the substance prescribed numerically followed by the number written as a word if the prescription is written; or

(2) if the prescription is communicated orally or telephonically, the quantity of the substance prescribed numerically as transcribed by the receiving pharmacist.

SECTION 13. Section 3.09(c), Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) Except for oral prescriptions prescribed under Subsection (a) of Section 3.08 of this Act, the prescribing practitioner shall:

(1) legibly fill in, or direct a designated agent to legibly fill in, on all three copies of the form in the space provided:

(A) the date the prescription is written;

(B) the drug prescribed, the quantity [dosage] shown numerically followed by the number written as a word, and instructions for use; and

(C) the name, address, and age of the patient (or, in the case of an animal, its owner) for whom the controlled substance is prescribed;

(2) sign copies 1 and 2 of the form and give them to the person authorized to receive the prescription; and

(3) retain Copy 3 of the form with his records for a period of not less than two years from the date the prescription is written.

SECTION 14. Section 3.11, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.11. CHEMICAL PRECURSOR RECORD-KEEPING REQUIREMENTS AND PENALTIES. (a) A manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the following precursor substances to a person shall make an accurate and legible record of the transaction and maintain the record for a period of at least two years after the date of the transaction:

- (1) Methylamine;
- (2) Ethylamine;
- (3) D-lysergic acid;
- (4) Ergotamine tartrate;
- (5) Diethyl malonate;
- (6) Malonic acid;
- (7) Ethyl malonate;
- (8) Barbituric acid;
- (9) Piperidine;
- (10) N-acetylanthranilic acid;
- (11) Pyrrolidine;
- (12) Phenylacetic acid;

- (13) Anthranilic acid;
- (14) Morpholine;
- (15) Ephedrine;
- (16) Pseudoephedrine or norpseudoephedrine; or
- (17) Phenylpropanolamine.

(b) The director by rule may name additional substances as precursors for purposes of Subsection (a) of this section if public health and welfare are jeopardized by evidenced proliferation of a chemical substance utilized in the illicit manufacture of a controlled substance or controlled substance analogue. The director by rule may delete a substance named as a precursor for purposes of Subsection (a) of this section if the director determines that the substance does not jeopardize public health and welfare or is not used in the illicit manufacture of a controlled substance or a controlled substance analogue.

(c) The Department of Public Safety shall file with the secretary of state a certified copy of a rule adopted under this section.

(d) Before selling, transferring, or otherwise furnishing to a person in this state a precursor substance subject to Subsection (a) of this section, a manufacturer, wholesaler, retailer, or other person shall:

(1) if the recipient does not represent a business, obtain from the recipient:

(A) the recipient's driver's license number or other personal identification certificate number, date of birth, and residential or mailing address, other than a post office box number, from a driver's license or personal identification card issued by the Department of Public Safety that contains a photograph of the recipient;

(B) the year, state, and number of the motor vehicle license of the motor vehicle owned or operated by the recipient;

(C) a complete description of how the substance is to be used; and

(D) the recipient's signature; or

(2) if the recipient represents a business, obtain from the recipient:

(A) a letter of authorization from the business that includes the business license or comptroller tax identification number, address, area code, and telephone number and a complete description of how the substance is to be used; and

(B) the recipient's signature; and

(3) for any recipient, sign as a witness to the signature and identification of the recipient.

(e) If the recipient does not represent a business, the recipient shall present to the manufacturer, wholesaler, retailer, or other person a permit issued in the name of the recipient by the Department of Public Safety under Section 3.111 of this Act.

(f) Except as provided by Subsection (h) of this section, a manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes to a person in this state a precursor substance subject to Subsection (a) of this section shall submit, at least 21 days before the delivery of the substance, a report of the transaction on a form obtained from the director that includes the information required by Subsection (d) of this section.

(g) The director shall supply to a manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes a precursor substance subject to Subsection (a) of this section a form for the submission of:

(1) the report required by Subsection (f) of this section;

(2) the name and measured amount of the precursor substance delivered; and

(3) any other information required by the director.

(h) The director may authorize a manufacturer, wholesaler, retailer, or other person to submit a comprehensive monthly report instead of the report required by Subsection (f) of this section if the director determines that:

(1) there is a pattern of regular supply and purchase of the substance between the furnisher and the recipient; or

(2) the recipient has established a record of utilization of the substance solely for a lawful purpose.

(i) A manufacturer, wholesaler, retailer, or other person who receives from a source outside this state a substance subject to Subsection (a) of this section or who discovers a loss or theft of a substance subject to Subsection (a) of this section shall:

(1) submit a report of the transaction to the director in accordance with department rule; and

(2) include in the report:

(A) any difference between the amount of the substance actually received and the amount of the substance shipped according to the shipping statement or invoice; or

(B) the amount of the loss or theft.

(j) A report under Subsection (i) of this section must:

(1) be made not later than the third day after the date that the manufacturer, wholesaler, retailer, or other person learns of the discrepancy, loss, or theft; and

(2) if the discrepancy, loss, or theft occurred during a shipment of the substance, include the name of the common carrier or person who transported the substance and the date that the substance was shipped. [The department may, by rule, name additional substances as precursors for the purposes of record-keeping under Subsection (a) of this section if public health and welfare are jeopardized by evidenced proliferation of a chemical substance utilized in the illicit manufacture of a controlled substance. The department shall file with the secretary of state a certified copy of any rule adopted under this subsection.]

[(c) A manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes a precursor substance subject to Subsection (a) of this section shall file a written report with the director that includes the following information:

[(1) the name and address of the recipient;

[(2) if the recipient is acting on behalf of a business or another person, the name and address of the business or person; and

[(3) the name of the executive head and the telephone number of the business if a business is the recipient;

[(d) A person who files a report under Subsection (c) of this section and who subsequently becomes aware of a change in the information previously reported must file with the director a written notice of the change as soon as possible.

[(e) A record made under Subsection (a) of this section must include the following information:

[(1) the name and address of the recipient;

[(2) if the recipient is acting on behalf of a business or another person, the name and address of the business or other person;

[(3) if the recipient represents a business, the nature of the business;

[(4) the name, description, and amount of the precursor substance that was received; and

[(5) if the recipient does not represent an established business, the following identifying information:

[(A) the recipient's driver's license number or other official state-issued identification of the recipient that includes a photograph and the home address of the recipient, other than a post office box number;

~~[(B) the license plate number of a motor vehicle owned or operated by the recipient; and~~

~~[(C) a description, obtained from the recipient, of how the substance is to be used.]~~

~~(k) [(f)] A manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance subject to Subsection (a) of this section shall maintain records and inventories in accordance with rules established by the director and shall allow a peace officer to conduct audits and inspect records of purchases and all other records made in accordance with this section at any reasonable time and may not interfere with the audit or with the full and complete inspection or copying of those records. This subsection does not apply to a recipient who has obtained a precursor substance subject to Subsection (a) of this section and who is a permit holder under Section 3.111 of this Act [or copying of any of those records].~~

~~(l) [(g)] A manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes a precursor substance subject to Subsection (a) of this section commits an offense if the manufacturer, wholesaler, retailer, or other person fails to comply with this section.~~

~~[(h) Except as provided by Subsection (i) of this section, an offense under Subsection (g) of this section is a Class A misdemeanor.~~

~~[(i) If it is shown on the trial of a defendant that the defendant was convicted previously under that subsection, the offense is punishable as a felony of the third degree.~~

~~[(j)] This section does not apply to the sale or transfer of a nonnarcotic product that includes a precursor substance subject to Subsection (a) of this section if the product may be sold lawfully with a prescription or over the counter without a prescription under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.) or a rule adopted under that Act.~~

SECTION 15. Subchapter 3, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended by adding Section 3.111 to read as follows:

Sec. 3.111. CHEMICAL PRECURSOR TRANSFER PERMITS. (a) A person must obtain a chemical precursor transfer permit from the Department of Public Safety to be eligible:

(1) to sell, transfer, or otherwise furnish a precursor substance subject to Section 3.11(a) of this Act to a person in this state;

(2) to receive a precursor substance subject to Section 3.11(a) of this Act from a source outside this state; or

(3) to receive a precursor substance subject to Section 3.11(a) of this Act if the person, in receiving the substance, does not represent a business.

(b) The Department of Public Safety by rule shall develop procedures for the issuance and renewal of:

(1) a permit for one sale, transfer, receipt, or otherwise furnishing of a controlled substance precursor; or

(2) a permit for more than one sale, transfer, receipt, or otherwise furnishing of a controlled substance precursor.

(c) A permit issued or renewed under Subsection (b)(1) of this section is only valid for the transaction indicated on the permit. A permit issued or renewed under Subsection (b)(2) of this section is valid for one year after the date of issuance or renewal.

(d) A permit holder must report in writing or by telephone to the director a change in the holder's business name, address, area code, and telephone number not later than the seventh day after the date of the change.

(e) The Department of Public Safety shall file with the secretary of state a certified copy of a rule adopted under this section.

SECTION 16. Subchapter 3, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended by adding Section 3.112 to read as follows:

Sec. 3.112. UNLAWFUL TRANSFER OR RECEIPT OF CHEMICAL PRECURSOR. (a) A person who sells, transfers, furnishes, or receives a precursor substance subject to Section 3.11(a) of this Act commits an offense if the person:

(1) is required by Section 3.111 of this Act to have a precursor transfer permit and does not have a precursor transfer permit at the time of the transaction;

(2) does not comply with the requirements of Section 3.11 of this Act; or

(3) knowingly makes a false statement in a report or record required by Section 3.11 or 3.111 of this Act.

(b) A person who sells, transfers, or otherwise furnishes a precursor substance subject to Section 3.11(a) of this Act commits an offense if the person sells, transfers, or furnishes the substance with the knowledge or intent that the recipient will use the substance to unlawfully manufacture a controlled substance or controlled substance analogue.

(c) Except as provided by Subsection (d) of this section, an offense under Subsection (a) of this section is a Class A misdemeanor.

(d) If it is shown on the trial of a defendant that the defendant was convicted previously under this section, an offense under Subsection (a) of this section is a felony of the third degree.

(e) An offense under Subsection (b) of this section is a felony of the third degree.

SECTION 17. Subchapter 3, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended by adding Section 3.12 to read as follows:

Sec. 3.12. CHEMICAL LABORATORY APPARATUS RECORD-KEEPING REQUIREMENTS AND PENALTIES. (a) In this section, "chemical laboratory apparatus" means any equipment designed, made, or adapted to manufacture a controlled substance, including:

- (1) condensers;
- (2) distilling apparatus;
- (3) vacuum dryers;
- (4) three-neck flasks;
- (5) distilling flasks;
- (6) tableting machines; or
- (7) encapsulating machines.

(b) A manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes chemical laboratory apparatus shall make an accurate and legible record of the transaction and maintain the record for at least two years after the date of the transaction.

(c) The director may adopt rules or regulations to implement this section.

(d) The director by rule may name additional chemical laboratory apparatus for purposes of Subsection (a) of this section if public health and welfare are jeopardized by evidenced use of a chemical laboratory apparatus in the illicit manufacture of a controlled substance or controlled substance analogue. The director by rule may delete an apparatus listed in Subsection (a) of this section if the director determines that the apparatus does not jeopardize public health and welfare or is not used in the illicit manufacture of a controlled substance or a controlled substance analogue.

(e) The Department of Public Safety shall file with the secretary of state a certified copy of a rule or a regulation adopted under this section.

(f) Before selling, transferring, or otherwise furnishing to a person in this state an apparatus subject to Subsection (a) of this section, a manufacturer, wholesaler, retailer, or other person shall:

(1) if the recipient does not represent a business, obtain from the recipient:

(A) the recipient's driver's license number or other personal identification certificate number, date of birth, and residential or mailing address, other than a post office box number, from a driver's license or personal identification card issued by the Department of Public Safety that contains a photograph of the recipient;

(B) the year, state, and number of the motor vehicle license of the motor vehicle owned or operated by the recipient;

(C) a complete description of how the apparatus is to be used; and

(D) the recipient's signature; or

(2) if the recipient represents a business, obtain from the recipient:

(A) a letter of authorization from the business that includes the business license or comptroller tax identification number, address, area code, and telephone number and a complete description of how the apparatus is to be used; and

(B) the recipient's signature; and

(3) for any recipient, sign as a witness to the signature and identification of the recipient.

(g) If the recipient does not represent a business, the recipient shall present to the manufacturer, wholesaler, retailer, or other person a permit issued in the name of the recipient by the Department of Public Safety under Section 3.121 of this Act.

(h) Except as provided by Subsection (j) of this section, a manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes to a person in this state an apparatus subject to Subsection (a) of this section shall, at least 21 days before the delivery of the apparatus, submit a report of the transaction on a form obtained from the director that includes the information required by Subsection (f) of this section.

(i) The director shall supply to a manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes an apparatus subject to Subsection (a) of this section a form for the submission of:

(1) the report required by Subsection (h) of this section;

(2) the name and number of apparatus delivered; and

(3) any other information required by the director.

(j) The director may authorize a manufacturer, wholesaler, retailer, or other person to submit a comprehensive monthly report instead of the report required by Subsection (h) of this section if the director determines that:

(1) there is a pattern of regular supply and purchase of the apparatus between the furnisher and the recipient; or

(2) the recipient has established a record of utilization of the apparatus solely for a lawful purpose.

(k) A manufacturer, wholesaler, retailer, or other person who receives from a source outside this state an apparatus subject to Subsection (a) of this section or who discovers a loss or theft of an apparatus subject to Subsection (a) of this section shall:

(1) submit a report of the transaction to the director in accordance with department rule; and

(2) include in the report:

(A) any difference between the number of the apparatus actually received and the number of the apparatus shipped according to the shipping statement or invoice; or

(B) the number of the loss or theft.

(l) A report under Subsection (k) of this section must:

(1) be made not later than the third day after the date that the manufacturer, wholesaler, retailer, or other person learns of the discrepancy, loss, or theft; and

(2) if the discrepancy, loss, or theft occurred during a shipment of the apparatus, include the name of the common carrier or person who transported the apparatus and the date that the apparatus was shipped.

(m) A manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any apparatus subject to Subsection (a) of this section shall maintain records and inventories in accordance with rules established by the director and shall allow a peace officer to conduct audits and inspect records of purchases and all other records made in accordance with this section at any reasonable time and may not interfere with the audit or with the full and complete inspection or copying of those records. This subsection does not apply to a recipient who has obtained a chemical laboratory apparatus subject to Subsection (a) of this section and who is a permit holder under Section 3.121 of this Act.

SECTION 18. Subchapter 3, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended by adding Section 3.121 to read as follows:

Sec. 3.121. CHEMICAL LABORATORY APPARATUS TRANSFER PERMITS. (a) A person must obtain a chemical laboratory apparatus transfer permit from the Department of Public Safety to be eligible:

(1) to sell, transfer, or otherwise furnish an apparatus subject to Section 3.12(a) of this Act to a person in this state;

(2) to receive an apparatus subject to Section 3.12(a) of this Act from a source outside this state; or

(3) to receive an apparatus subject to Section 3.12(a) of this Act if the person, in receiving the apparatus, does not represent a business.

(b) The Department of Public Safety by rule shall develop procedures for the issuance and renewal of:

(1) a permit for one sale, transfer, receipt, or otherwise furnishing of a chemical laboratory apparatus; or

(2) a permit for more than one sale, transfer, receipt, or otherwise furnishing of a chemical laboratory apparatus.

(c) A permit issued or renewed under Subsection (b)(1) of this section is only valid for the transaction indicated on the permit. A permit issued or renewed under Subsection (b)(2) of this section is valid for one year after the date of issuance or renewal.

(d) A permit holder must report in writing or by telephone to the director a change in the holder's business name, address, area code, and telephone number not later than the seventh day after the date of the change.

(e) The Department of Public Safety shall file with the secretary of state a certified copy of a rule adopted under this section.

SECTION 19. Subchapter 3, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended by adding Section 3.122 to read as follows:

Sec. 3.122. UNLAWFUL TRANSFER OR RECEIPT OF CHEMICAL LABORATORY APPARATUS. (a) A person who sells, transfers, furnishes, or receives an apparatus subject to Section 3.12(a) of this Act commits an offense if the person:



(1) is required by Section 3.121 of this Act to have an apparatus transfer permit and does not have an apparatus transfer permit at the time of the transaction;

(2) does not comply with the requirements of Section 3.12 of this Act; or

(3) knowingly makes a false statement in a report or record required by Section 3.12 or 3.121 of this Act.

(b) A person who sells, transfers, or otherwise furnishes an apparatus subject to Subsection (a) of Section 3.12 of this Act commits an offense if the person sells, transfers, or furnishes the apparatus with the knowledge or intent that the recipient will use the apparatus to unlawfully manufacture a controlled substance or controlled substance analogue.

(c) Except as provided by Subsection (d) of this section, an offense under Subsection (a) of this section is a Class A misdemeanor.

(d) If it is shown on the trial of a defendant that the defendant was convicted previously under this section, an offense under Subsection (a) of this section is a felony of the third degree.

(e) An offense under Subsection (b) of this section is a felony of the third degree.

SECTION 20. The heading of Subchapter 3, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

**SUBCHAPTER 3. REGULATION OF MANUFACTURE, DISTRIBUTION,  
AND  
DISPENSING OF CONTROLLED SUBSTANCES, CONTROLLED  
SUBSTANCE  
ANALOGUES, ~~AND~~ CHEMICAL PRECURSORS, AND CHEMICAL  
LABORATORY APPARATUS**

SECTION 21. Section 4.02, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.02. CRIMINAL CLASSIFICATION. (a) For the purpose of establishing criminal penalties for violation of a provision of this Act, there are established the following groups of controlled substances, including a material, compound, mixture, or preparation containing the controlled substance.

(b) Penalty Group 1. Penalty Group 1 shall include the following controlled substances:

(1) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

Alfentanil;  
Allylprodine;  
Benzethidine;  
Betaprodine;  
Clonitazene;  
Diampromide;  
Diethylthiambutene;  
Difenoxin;  
Dimenoxadol;  
Dimethylthiambutene;  
Dioxaphetyl butyrate;  
Dipipanone;  
Ethylmethylthiambutene;  
Etonitazene;  
Etixeridine;

Furethidine;  
Hydroxypethidine;  
Ketobemidone;  
Levophenacymorphan;  
Meprodine;  
Methadol;  
Moramide;  
Morpheridine;  
Noracymethadol;  
Norlevorphanol;  
Normethadone;  
Norpipanone;  
Phenadoxone;  
Phenampromide;  
Phenomorphane;  
Phenoperidine;  
Piritramide;  
Proheptazine;  
Properidine;  
Propiram;  
Sufentanil;  
Tilidine;  
Trimeperidine.

(2) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

Acetorphine;  
Acetyldihydrocodeine;  
Benzylmorphine;  
Codeine methylbromide;  
Codeine-N-Oxide;  
Cyprenorphine;  
Desomorphine;  
Dihydromorphine;  
Drotebanol;  
Etorphine, except hydrochloride salt;  
Heroin;  
Hydromorphanol;  
Methyldesorphine;  
Methyldihydromorphine;  
Monoacetylmorphine;  
Morphine methylbromide;  
Morphine methylsulfonate;  
Morphine-N-Oxide;  
Myrophine;  
Nicocodeine;  
Nicomorphine;  
Normorphine;  
Pholcodine;  
Thebacon.

(3) Any of the following substances, except those narcotic drugs listed in another group, however produced:

(A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding nalmeferene, naloxone and its salts, and excluding naltrexone and its salts, but including the following:

Codeine;  
 Ethylmorphine;  
 Granulated opium;  
 Hydrocodone;  
 Hydromorphone;  
 Metopon;  
 Morphine;  
 Opium extracts;  
 Opium fluid extracts;  
 Oxycodone;  
 Oxymorphone;  
 Powdered opium;  
 Raw opium;  
 Thebaine;  
 Tincture of opium;

(B) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (A), but not including the isoquinoline alkaloids of opium;

(C) Opium poppy and poppy straw;

(D) Cocaine, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers; coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;

(E) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrine alkaloids of the opium poppy);

(F) Temporary listing of substances subject to emergency scheduling by the Federal Drug Enforcement Administration and any material, compound, mixture, or preparation that contains any quantity of the following substances: N,N-dimethylamphetamine (Some trade or other names: N,N,alpha-trimethylbenzeneethanamine; N,N,alpha-trimethylphenethylamine), its salts, optical isomers, and salts of optical isomers.

(4) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

Acetyl-alpha-methylfentanyl

(N-[1-(1-methyl-2-phenethyl)-4-piperidiny]-N-phenylacetamide);

Alpha-methylthiofentanyl

(N-[1-methyl-2-(2-thienyl)ethyl-4-piperidiny]-N-phenylpropanamide);

Alphaprodine;

Anileridine;

Beta-hydroxyfentanyl

(N-[1-(2-hydroxy-2-phenethyl)-4-piperidiny]-N-phenylpropanamide);

Beta-hydroxy-3-methylfentanyl;

Bezitramide;

Carfentanil;

Dihydrocodeine;

Diphenoxylate;

Fentanyl or alpha-methylfentanyl, or any other derivative of

Fentanyl;

Isomethadone;

- Levomethorphan;  
 Levorphanol;  
 Metazocine;  
 Methadone;  
 Methadone-Intermediate,  
 4-cyano-2-dimethylamino-4, 4-diphenyl butane;  
3-methylfentanyl  
(N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);  
3-methylthiofentanyl  
(N-[3-methyl-1-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide);  
 Moramide-Intermediate,  
 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;  
Para-fluorofentanyl  
(N-(4-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]propanamide);  
PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);  
 Pethidine;  
 Pethidine-Intermediate-A,  
 4-cyano-1-methyl-4-phenylpiperidine;  
 Pethidine-Intermediate-B,  
 ethyl-4-phenylpiperidine-4 carboxylate;  
 Pethidine-Intermediate-C,  
 1-methyl-4-phenylpiperidine-4-carboxylic acid;  
 Phenazocine;  
 Piminodine;  
 Racemethorphan;  
 Racemorphan;  
Thiofentanyl  
(N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide).
- (5) Lysergic acid diethylamide, including its salts, isomers, and salts of isomers.
- (6) Methamphetamine, including its salts, optical isomers, and salts of optical isomers.
- (7) Phenylacetone and methylamine, if possessed together with intent to manufacture methamphetamine;
- (8) Phencyclidine, including its salts.
- (c) Penalty Group 2. Penalty Group 2 shall include the following controlled substances: (1) Any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position, and geometric isomers):
- 4-bromo-2,5-dimethoxyamphetamine (Some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA);
- Bufotenine (Some trade and other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole;
- 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N, N-dimethyltryptamine; mappine);
- Diethyltryptamine (Some trade and other names: N,N-Diethyltryptamine, DET);
- 2, 5-dimethoxyamphetamine (Some trade or other names: 2, 5-dimethoxy-alpha-methylphenethylamine; 2, 5-DMA);
- Dimethyltryptamine (Some trade and other names: DMT);
- Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product. (Some

trade or other names for Dronabinol: (a6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-01, or (-)-delta-9-(trans)-tetrahydrocannabinol);

Ethylamine Analog of Phencyclidine (Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);

Ibogaine (Some trade or other names: 7-Ethyl-6, 6, beta 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H-pyrido [1', 2':1, 2] azepino [5, 4-b] indole; tabernanthe iboga.);

Mescaline;

5-methoxy-3, 4-methylenedioxy amphetamine;

4-methoxyamphetamine (Some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA);

1-methyl-4-phenyl-1,2,5,6-tetrahydro-pyridine (MPTP);

1-methyl-4-phenyl-4-propionoxy-piperidine (MPPP, PPMP);

4-methyl-2, 5-dimethoxyamphetamine (Some trade and other names: 4-methyl-2, 5-dimethoxy-alpha-methylphenethylamine; "DOM"; "STP");

3,4-methylene-dioxy methamphetamine (MDMA, MDM);

3,4-methylenedioxy amphetamine;

3,4-methylenedioxy N-ethylamphetamine (Also known as N-ethyl MDA);

N-ethyl-3-piperidyl benzilate;

N-hydroxy 3,4-methylenedioxyamphetamine (Also known as N-hydroxy MDA);

4-methylaminorex;

N-methyl-3-piperidyl benzilate;

Parahexyl (Some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b, d] pyran; Synhexyl);

1-Phenylcyclohexylamine;

1-Piperidinocyclohexane-Carbonitrile (PCC);

Psilocin;

Psilocybin;

Pyrrolidine Analog of Phencyclidine (Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);

Tetrahydrocannabinols, other than marihuana, and synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

delta-1 cis or trans tetrahydrocannabinol, and their optical isomers;

delta-6 cis or trans tetrahydrocannabinol, and their optical isomers;

delta-3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered.)

Thiophene Analog of Phencyclidine (Some trade or other names: 1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienyl Analog of Phencyclidine; TPCP, TCP);

3,4,5-trimethoxy amphetamine;

(2) Phenylacetone (Some trade or other names: Phenyl-2-propanone; P-2-P, Benzylmethyl ketone, methyl benzyl ketone);

(3) Unless specifically excepted or unless listed in another Penalty Group, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant or stimulant effect on the central nervous system:

Amphetamine, its salts, optical isomers, and salts of optical isomers;  
Etorphine Hydrochloride;  
Fenethylline and its salts;  
Mecloqualone and its salts;  
Methaqualone and its salts;  
N-Ethylamphetamine, its salts, optical isomers, and salts of optical isomers.

(d) Penalty Group 3. Penalty Group 3 shall include the following controlled substances:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

Methylphenidate and its salts;  
Phenmetrazine and its salts.

(2) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

Any substances which contain any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid not otherwise covered by this subsection;

Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt of any of these, and one or more active medicinal ingredients which are not listed in any schedule;

Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs, and approved by the United States Food and Drug Administration for marketing only as a suppository;

Alprazolam;  
Amobarbital;  
Bromazepam;  
Camazepam;  
Chlordiazepoxide;  
Chlorhexadol;  
Clobazam;  
Clonazepam;  
Clorazepate;  
Clotiazepam;  
Cloxazolam;  
Delorazepam;  
Diazepam;  
Estazolam;  
Ethyl loflazepate;  
Fludiazepam;  
Flunitrazepam;  
Flurazepam;  
Glutethimide;  
Halazepam;  
Haloxazolam;  
Ketazolam;  
Loprazolam;  
Lorazepam;  
Lormetazepam;  
Lysergic acid, including its salts, isomers, and salts of isomers;  
Lysergic acid amide, including its salts, isomers, and salts of isomers;

Mebutamate;  
Medazepam;  
Midazolam;  
Methypylon;  
Nimetazepam;  
Nitrazepam;  
Nordiazepam;  
Oxazepam;  
Oxazolam;  
Pentazocine, its salts, derivatives, or compounds or mixtures thereof;  
Pentobarbital;  
Pinazepam;  
Prazepam;  
Quazepam;  
Secobarbital;  
Sulfondiethylmethane;  
Sulfonethylmethane;  
Sulfonmethane;  
Temazepam;  
Tetrazepam;  
Triazolam.

(3) Nalorphine.

(4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(5) Any compound, mixture, or preparation containing any stimulant listed in Subsection (d)(1) of this section or depressant substance listed in Subsection (d)(2) of this section is excepted if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a

stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

(6) Any material, compound, mixture or preparation which contains any quantity of the following substances:

Barbital;  
Chloral betaine;  
Chloral hydrate;  
Ethchlorvynol;  
Ethinamate;  
Methohexital;  
Meprobamate;  
Methylphenobarbital (Mephobarbital);  
Paraldehyde;  
Petrichloral;  
Phenobarbital.

(7) Any compound, mixture or preparation containing any depressant substance listed in Subsection (d)(6) is excepted if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

(8) Peyote, unless unharvested and growing in its natural state, (meaning all parts of the plant presently classified botanically as Lophophora, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or extracts):

(9) Unless listed in another penalty group, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of its isomers, if the existence of the salts, isomers, and salts of isomers is possible, within the specific chemical designation:

Benzphetamine;  
Cathine [(S)-norpseudoephedrine];  
Chlorphentermine;  
Clortermine;  
Diethylpropion;  
Femcamfamin;  
Fenfluramine;  
Fenproporex;  
Mazindol;  
Mefenorex;  
Pemoline (including organometallic complexes and chelates thereof);  
Phendimetrazine;  
Phentermine;  
Pipradrol;  
SPA [(-)-1-dimethylamino-1,2-diphenylethane].

(10) OTHER SUBSTANCES. Unless specifically excepted or unless listed in another penalty group, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts:



Dextropropoxyphene (Alpha-(§)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionybutane).

(e) Penalty Group 4. Penalty Group 4 shall include the following controlled substances:

(1) Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

Not more than 15 milligrams of opium per 29.5729 milliliters or per 28.35 grams;

Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Unless specifically excepted or unless listed in another penalty group, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts as set forth below:

Buprenorphine.

(3) Stimulants. Unless specifically exempted or excluded or unless listed in another penalty group, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

Propylhexedrine;

Pyrovalerone.

SECTION 22. Section 4.09(b), Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) An offense under Subsection (a) with respect to:

(1) a controlled substance classified in Schedule I or II is a felony of the second degree;

(2) a controlled substance classified in Schedule III or IV is a felony of the third degree;

(3) a controlled substance classified in Schedule ~~IV or~~ V is a Class A ~~B~~ misdemeanor;

(4) a counterfeit substance is a Class A misdemeanor;

(5) delivery of a prescription for a controlled substance classified in Schedule II is a felony of the second degree;

(6) delivery of a prescription for a controlled substance in Schedule III, IV, or V is a felony of the third degree;

(7) possession of a prescription for a controlled substance in Schedule II or III is a felony of the third degree;

(8) possession of a prescription for a controlled substance in Schedule IV or V is a Class B misdemeanor;

(9) delivery of a prescription form is a felony of the second degree; and

(10) possession of a prescription form is a felony of the third degree.

SECTION 23. Section 5.07(e), Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) Upon petition of the seizing officer, filed in the name of the State of Texas with a ~~the clerk of the~~ district court, county court, or justice court in ~~of~~ the county in which the seizure of any controlled substance, ~~or~~ raw material, or drug paraphernalia is made, the ~~district~~ court having jurisdiction may order the controlled substance, ~~or~~ raw material, or drug paraphernalia summarily forfeited except when lawful possession and title can be ascertained. If a person is found to have had lawful possession and title prior to seizure, the court shall order the controlled substance, ~~or~~ raw material, or drug paraphernalia returned to the owner, if the owner so desires.

SECTION 24. Section 5.081, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.081. DESTRUCTION OF EXCESS QUANTITIES. (a) If a controlled substance ~~or raw material~~ is forfeited under Subsection (e) of Section 5.07 of this Act, the agency to which the substance ~~or material~~ is forfeited may destroy the substance ~~or material~~ provided the agency ensures that:

(1) at least five random and representative samples have been taken from the total amount of controlled substance or mixture containing the controlled substance, and a sufficient quantity has been preserved to provide for discovery by parties entitled to discovery;

(2) photographs have been taken which reasonably demonstrate the total amount of the controlled substance ~~or raw material~~; and

(3) the gross weight or liquid measure of the controlled substance ~~or raw material~~ has been determined, either by actually weighing or measuring the substance or by estimating its weight or measurement after making dimensional measurements of the total amount seized.

(b) Representative samples, photographs, and records made pursuant to this section are admissible in civil or criminal proceedings in the same manner and to the same extent as if the total quantity of the suspected controlled substance ~~or raw material~~ was offered in evidence, regardless of whether or not the remainder of the substance has been destroyed. No inference or presumption of spoliation applies to substances destroyed pursuant to this section.

(c) All hazardous waste, raw materials, residuals, contaminated glassware associated equipment, and by-products from illicit chemical laboratories or similar type operations that create health hazards, environmental hazards, or prohibit safe storage may be immediately destroyed by a law enforcement agency without court order if current environmental protection standards are followed.

(d) A law enforcement agency seizing materials described in Subsection (c) of this section shall ensure that photographs are taken that reasonably demonstrate the total amount of the materials seized and the manner in which the materials were physically arranged or positioned before seizure and disposal.

SECTION 25. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 26. This Act takes effect September 1, 1989.

SECTION 27. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

**Floor Amendment - Parker**

Amend C.S.S.B. 29, on page 15, line 22, by striking subsection (4) of Section 11, and add a new subsection (4) to read as follows:

“(4) permit the delivery of a controlled substance to any person not known to the pharmacist, the pharmacist intern, or the person authorized by the pharmacist to deliver the controlled substance without first requiring identification of the person taking possession of the controlled substance. If the person taking possession of the controlled substance does not have identification and the pharmacist determines that the controlled substance is needed for the immediate well-being of the patient, delivery may be made. Nothing in this subsection shall prohibit the delivery by mail or authorized delivery person of a controlled substance to a person or the address of the person authorized by prescription to receive that controlled substance.”

The amendments were read.

On motion of Senator Barrientos and by unanimous consent, the Senate concurred in the House amendments to S.B. 29 viva voce vote.

**SENATE RULE 7.22(b) SUSPENDED**

On motion of Senator Montford and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to House amendments to S.B. 631.

**SENATE BILL 631 WITH HOUSE AMENDMENTS**

Senator Montford called S.B. 631 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

**Committee Amendment - T. Smith**

Amend S.B. 631 by striking all below the enacting clause and substituting in

Amend S.B. 631 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Subdivision (1), Section 325.002, Government Code, is amended to read as follows:

(1) “State agency” means an agency expressly made subject to this chapter.

~~[(C) a river authority created under Article XVI, Section 59, of the Texas Constitution and its board of directors as provided by Section 325.023.]~~

SECTION 2. Section 12.081, Water Code, is amended to read as follows:

Sec. 12.081. CONTINUING RIGHT OF SUPERVISION OF DISTRICTS CREATED UNDER ARTICLE III, SECTION 52 AND ARTICLE XVI, SECTION 59 OF THE TEXAS CONSTITUTION. (a) The powers and duties of all districts and authorities created under Article III, Section 52 and Article XVI, Section 59 of the Texas Constitution are subject to the continuing right of supervision of the State of Texas by and through the commission or its successor, and this supervision may include but is not limited to the authority to:

(1) inquire into the competence, fitness, and reputation of the officers and directors of any district;

(2) require, on its own motion or on complaint by any person, audits or other financial information, inspections, evaluations, and engineering reports;

(3) issue subpoenas for witnesses to carry out its authority under this subsection;

(4) institute investigations and hearings using examiners appointed by the commission;

(5) issue rules necessary to supervise the districts and authorities, except that such rules shall not apply to water quality ordinances adopted by any river authority which meet or exceed minimum requirements established by the Texas Water Commission; and

(6) The right of supervision granted herein shall be limited to water related matters subject to regulation by the commission pursuant to the Texas Water Code.

(b) The commission shall prepare and submit to the governor, lieutenant governor, and speaker of the house a report of any findings made under this section. [The provision of this section shall not apply to any river authority encompassing 10 or more counties which was not subject to the continuing right of supervision of the State of Texas by and through the commission or its predecessors on June 10, 1989.]

SECTION 3. Subchapter K, Chapter 50, Water Code, is amended by adding Section 50.3811 to read as follows:

Sec. 50.3811. REVIEW AND COMMENT ON BUDGET OF CERTAIN DISTRICTS. A district that provides wholesale water and wastewater services shall adopt a program that provides the district's wholesale customers an opportunity to review and comment on the district's annual budget that applies to their services, before that budget is adopted by the district's governing body.

SECTION 4. Section 325.023, Government Code, is repealed.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

#### Floor Amendment No. 1 - Craddick

Amend C.S.S.B. 631 as follows:

(1) On page 2, strike lines 13-15 and substitute the following:

"(6) The right of supervision granted herein shall not apply to matters relating to electric utility operations."

#### Floor Amendment No. 2 - Swift

Amend C.S.S.B. 631 as follows:

(1) On page 1, line 15, after "DISTRICTS", insert "AND AUTHORITIES".

(2) On page 1, line 24, between "district" and ";", insert "or authority".

(3) On page 2, line 26, between "DISTRICTS" and ".", insert "AND AUTHORITIES".

(4) On page 2, line 26, between "district" and "that", insert "or authorities".

(5) On page 2, line 27, after "district's", add "or authorities".

(6) On page 3, line 2, between "district's" and "annual", insert "or authorities".

(7) On page 3, line 3, between "district's" and "governing", insert "or authorities".

The amendments were read.

Senator Montford moved to concur in the House amendments to **S.B. 631**.

The motion prevailed by the following vote: Yeas 25, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, Montford, Parker, Ratliff, Santiesteban, Sims, Tejeda, Uribe, Zaffirini.

Nays: Caperton, Truan, Washington.

Absent: McFarland, Parmer, Whitmire.

(Senator Krier in Chair)

#### **SENATE BILL 47 WITH HOUSE AMENDMENT**

Senator Uribe called **S.B. 47** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

#### **Committee Amendment - D. Hudson**

Amend **S.B. 47** by striking all below the enacting clause and substituting in lieu thereof the following:

**SECTION 1. TRANSFER.** The governance, operation, management, and control of Pan American University including Pan American University at Brownsville along with all right, title, and interest in the land, buildings, facilities, improvements, equipment, supplies, and property comprising the institutions is transferred from the Board of Regents of Pan American University to the Board of Regents of The University of Texas System.

**SECTION 2. POWERS AND DUTIES.** The Board of Regents of The University of Texas System shall undertake to govern, operate, manage, and control Pan American University including Pan American University at Brownsville and all land, buildings, facilities, improvements, equipment, supplies, and property comprising that institution pursuant to the powers, duties, and responsibilities that are or may be conferred by law upon the Board of Regents of The University of Texas System for the governance, operation, management, and control of component institutions comprising that system.

**SECTION 3. APPROPRIATIONS.** Appropriations made by the legislature for the use and benefit of Pan American University and Pan American University at Brownsville under the governance of the Board of Regents of Pan American University are transferred to the Board of Regents of The University of Texas System for the use and benefit of that institution. Other funds held for the use and benefit of Pan American University and Pan American University at Brownsville shall continue to be available for the use and benefit of those institutions notwithstanding the changes in name and governance made by this Act.

**SECTION 4. CONTRACTS AND WRITTEN OBLIGATIONS.** Contracts and written obligations of every kind and character, including bonds, entered into by the Board of Regents of Pan American University for and on behalf of Pan American University or Pan American University at Brownsville are ratified, confirmed, and validated. In those contracts and written obligations, including bonds, the Board of Regents of The University of Texas System is substituted for and stands and acts in the place of the Board of Regents of Pan American University.

**SECTION 5. EFFECT OF TRANSFER.** The transfer of governance, operation, management, and control of Pan American University including Pan American University at Brownsville from the Board of Regents of Pan American

University to the Board of Regents of The University of Texas System does not affect:

- (1) the credit hours earned by students at those institutions before the effective date of this Act; or
- (2) the employment status on the effective date of this Act of the administrative, faculty, or support staff of Pan American University or Pan American University at Brownsville.

SECTION 6. AMENDMENT. Subtitle C, Title 3, Education Code, is amended by adding Chapter 77 to read as follows:

**CHAPTER 77. THE UNIVERSITY OF TEXAS—PAN AMERICAN**

**SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 77.01. **DEFINITIONS.** In this chapter:

(1) "Board" means the Board of Regents of The University of Texas System.

(2) "University" means The University of Texas — Pan American.

(3) "Center" means The University of Texas — Pan American — Brownsville.

SECTION 77.02. **EFFECT OF CHAPTER.** The powers granted by this chapter to the Board of Regents of The University of Texas System are in addition to other powers that are or may be conferred by law.

[Sections 77.03-77.10 reserved for expansion]

**SUBCHAPTER B. THE UNIVERSITY OF TEXAS—PAN AMERICAN**

Sec. 77.11. **THE UNIVERSITY OF TEXAS—PAN AMERICAN.** The University of Texas — Pan American is a coeducational institution of higher education located in the city of Edinburg with an upper level center in Brownsville. The university is a component institution of The University of Texas System under the governance, management, and control of the Board of Regents of The University of Texas System.

SECTION 77.12. **COURSES AND DEGREES; ROLE AND SCOPE.** (a) The board may prescribe courses leading to customary degrees offered at leading American universities and may award those degrees, including bachelor's, master's, and doctoral degrees and their equivalents. These degree programs should also meet the requirements of the area for economic development.

(b) A department, school, or degree program may not be instituted without the prior approval of the Texas Higher Education Coordinating Board.

(c) The university shall emphasize excellence in teaching, research, and public service. Faculty research:

(1) is encouraged that is compatible with the academic strength of the university and economic needs of the area; and

(2) shall be funded through private sources, competitively acquired sources, and appropriated public funds.

Sec. 77.13. **GIFTS AND GRANTS.** The board may accept and administer, on terms and condition acceptable to it, gifts, grants, or donations of any kind and from any source for use by The University of Texas—Pan American.

Sec. 77.14. **MILITARY TRAINING.** A student of the university may not be required to take a military training course as a condition for admission to or graduation from the university.

Sec. 77.15. **ACQUISITION AND DISPOSITION OF LAND.** (a) In addition to other powers conferred on the board, the board on behalf of the university may acquire by purchase, exchange, or otherwise any tract or parcel of land in Hidalgo County that is contiguous or adjacent to the main campus of the university in Edinburg, Texas.

(b) The proceeds from any sale or lease of real property of the university shall be deposited as other local funds of the university.

[Sections 77.16-77.30 reserved for expansion]

**SUBCHAPTER C. THE UNIVERSITY OF TEXAS —  
PAN AMERICAN — BROWNSVILLE**

**SECTION 77.31. ESTABLISHMENT; SCOPE.** (a) The board shall establish an upper-level educational center of The University of Texas — Pan American in the city of Brownsville, to be known as The University of Texas — Pan American — Brownsville. This upper-level educational center may be converted to a freestanding, fully state-supported coeducational institution of higher learning on compliance with all requirements imposed by the Texas Higher Education Coordinating Board and on securing the site for such institution, consisting of at least 200 acres of land, at no cost to the state.

(b) The center shall teach only junior, senior, and graduate-level courses.

**Sec. 77.32. COURSES AND DEGREES.** (a) Notwithstanding any other provisions of law, the board may authorize the institution to offer, at the center, any upper level or graduate course which is authorized by the Coordinating Board for the university as a whole.

(b) The board shall encourage the institution to offer a broad array of the authorized courses in order that Brownsville students may complete the requirements for many degrees at the center in Brownsville.

(c) The board shall award degrees in the name of The University of Texas - Pan American but may note on the diploma or other official records that the majority of the degree requirements were met at the center located in Brownsville. The board may not award degrees in the name of the center prior to its conversion into a free standing institution.

**Sec. 77.33. FACILITIES.** The board shall make provisions for adequate physical facilities for use by center, subject to the normal requirements of the board and the Texas Higher Education Coordinating Board.

**Sec. 77.34. GIFTS AND GRANTS.** The board may accept and administer, on terms and conditions acceptable to it, gifts, grants, or donations of any kind and from any source for use by The University of Texas—Pan American—Brownsville.

**Sec. 77.35. TRANSFER OF FUNDS.** Unless otherwise specifically restricted, funds may be transferred to the center to implement Sec. 77.32 and for other purposes as The Board may specify. Individuals may be paid from any combination of funds budgeted for the center and the university.

**SECTION 7.** Section 55.172, Education Code, is amended to read as follows:

**Sec. 55.172. THE UNIVERSITY OF TEXAS - PAN AMERICAN [PAN AMERICAN UNIVERSITY].** (a) The board of regents of The University of Texas System [Pan American University] may construct and equip academic buildings, structures, and facilities for The University of Texas - Pan American [Pan American University], following approval for such construction by the Texas Higher Education Coordinating Board [- Texas College and University System;] and for these purposes may issue revenue bonds pursuant to this subchapter. The board may pledge irrevocably to the payment of these revenue bonds all or any part of the aggregate amount of student tuition charges required or authorized by law to be imposed on students enrolled at The University of Texas - Pan American [Pan American University]; and the amount of any pledge so made shall never be reduced or abrogated while the bonds are outstanding. However, the tuition charges shall not be pledged pursuant to the authority granted by this subsection except to the payment of bonds issued in an aggregate principal amount not to exceed \$10 million for the purpose of providing funds to construct and equip academic buildings, structures, and facilities for The University of Texas - Pan American [Pan American University].

(b) It is provided, however, that no bonds shall be issued hereunder and no tuition shall be pledged thereto unless and until the specific terms and provisions

of said bonds have been first approved by the Texas Higher Education Coordinating Board[~~-Texas College and University System;~~] in accordance with the rules and regulations regarding that subject adopted, published and heard in accordance with Section 61.027 of this code.

SECTION 8. REPEALER. Chapter 112, Education Code, is repealed.

SECTION 9. EFFECTIVE DATE. (a) The Board of Regents of Pan American University is abolished on the effective date of this Act.

(b) This Act takes effect September 1, 1989.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

#### MOTION TO CONCUR

Mr. President, before I move to concur in the House amendment to **S.B. 47**, relating to the merger of Pan American University and The University of Texas System, I want the record to reflect that I'm disappointed that my colleagues in the House of Representatives removed the provisions to make Pan American University-Brownsville a free-standing, degree-granting institution from my original bill.

While the merger bill is good news to the Valley, it doesn't go as far as I and others had envisioned. The Lower Rio Grande Valley is one of the State's fastest growing regions. We have an expanding population and expanding educational needs. For too long we've been ignored by the State's higher education hierarchy, as the Joint Committee on Higher Education in South Texas documented.

I had hoped that the Legislature and not the courts would take the lead in improving the accessibility of higher education throughout the State. This bill, in its original form, represented our best efforts in the Senate to legislate rather than to litigate the South Texas higher education issue. The House amendment forces us to pursue remedies in the courts.

I'm proud to be the author of legislation that allows us to realize a lifelong dream of bringing The University of Texas to the Valley.

Mr. President, I move to concur with the House amendment.

URIBE

The Senate concurred in the House amendment to **S.B. 47** viva voce vote.

#### COMMITTEE SUBSTITUTE HOUSE BILL 1106 ON SECOND READING

On motion of Senator Glasgow and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 1106**, Relating to the obligation of certain hospitals to provide services under the Indigent Health Care and Treatment Act.

The bill was read second time and was passed to third reading viva voce vote.



**COMMITTEE SUBSTITUTE  
HOUSE BILL 1106 ON THIRD READING**

Senator Glasgow moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.H.B. 1106** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**NOTICE OF CONSIDERATION OF NOMINATIONS**

Senator Edwards gave notice that he would tomorrow at the conclusion of Morning Call submit to the Senate for consideration nominations to agencies, boards and commissions of the State.

**GUEST PRESENTED**

Senator Washington was recognized and introduced Ms. Mojanku Gumbi of Johannesburg, South Africa.

Ms. Gumbi, sponsored by The University of Texas Law School, was welcomed by the Senate.

**SENATE BILL 1723 ON THIRD READING**

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

**S.B. 1723**, Relating to the application of the Texas Sunset Act to the Public Utility Commission and the Office of Public Utility Counsel.

**(President in Chair)**

The bill was read third time and was passed by the following vote: Yeas 21, Nays 9.

Yeas: Armbrister, Barrientos, Brooks, Dickson, Glasgow, Green, Haley, Harris, Henderson, Krier, Lyon, Montford, Parker, Parmer, Ratliff, Santiesteban, Tejeda, Uribe, Washington, Whitmire, Zaffirini.

Nays: Bivins, Brown, Caperton, Carriker, Edwards, Johnson, Leedom, Sims, Truan.

Absent: McFarland.

**SENATE BILL 117 ON SECOND READING**

On motion of Senator Johnson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 117**, Relating to the prohibition of discrimination in certain public accommodations and associations; providing a criminal penalty.

The bill was read second time.

Senator Glasgow offered the following amendment to the bill:

Amend **S.B. 117** as follows:

Add a new Section 4 to the bill to read as follows (Committee Printing page 1, between lines 54 and 55), and renumber the subsequent sections accordingly:

**SECTION 4. EFFECT ON OTHER LAW.** This Act does not affect other reasonable local or state laws or regulations that relate to public health or safety.

The amendment was read and was adopted viva voce vote.

On motion of Senator Johnson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

#### **SENATE BILL 117 ON THIRD READING**

Senator Johnson moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 117** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

**(Senator Edwards in Chair)**

#### **COMMITTEE SUBSTITUTE**

#### **SENATE BILL 1205 ON SECOND READING**

On motion of Senator Uribe and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 1205**, Relating to the designation and operation of enterprise zones; providing for certain tax refunds.

The bill was read second time.

Senator Sims offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **C.S.S.B. 1205** as follows:

On page 4, line 21-22 of **SECTION 2**, section 4, (4) insert “;” after with; and strike, “pervasive poverty, unemployment, and economic distress; and substitute the following:

“(A) pervasive poverty, unemployment, and economic distress; or  
“(B) designated a rural area as defined by Section 481.085 of Chapter 481, Government Code.”

And renumber the subsequent sections appropriately.

The amendment was read and was adopted viva voce vote.

Senator Washington offered the following amendment to the bill:

#### **Floor Amendment No. 2**

Amend **C.S.S.B. 1205** as follows:

(1) Add a new Section 31 to read as follows:

**SECTION 31.** Article 6203c-3, Revised Statutes, is amended by adding Section 5A to read as follows:

Sec. 5A. DESIGNATION AS ENTERPRISE ZONE. (a) The Department, in cooperation with the director of the Department of Corrections, may designate the area occupied by a private business employing inmate labor under this article as an enterprise zone for the purposes of the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes). On that designation the business is a qualified business and enterprise project, and each inmate employee of the business is a qualified employee. The provisions of the Texas Enterprise Zone Act relating to application and designation and establishing criteria for an enterprise zone, qualified business, enterprise project, and qualified employee do not apply to an enterprise project, and qualified employee do not apply to an enterprise zone designated under this section. Creation of an enterprise project under this section is not considered the designation of an enterprise project for the purposes of a limit on enterprise projects provided by Section 10 of the Texas Enterprise Zone Act.

(b) The director administers an enterprise zone designated under this section and performs the functions in relation to the enterprise zone that a governing body under the Texas Enterprise Zone Act has in relation to a zone it creates.

(c) The director shall determine criteria for removing a designation as an enterprise zone under this section.

(d) In this section, "enterprise zone," "governing body," "qualified business," and "qualified employee" have the meanings assigned by Section 3, Texas Enterprise Zone Act.

(2) Renumber sections appropriately.

The amendment was read and was adopted viva voce vote.

On motion of Senator Uribe and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

#### **COMMITTEE SUBSTITUTE SENATE BILL 1205 ON THIRD READING**

Senator Uribe moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that C.S.S.B. 1205 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

#### **COMMITTEE SUBSTITUTE SENATE BILL 1678 ON SECOND READING**

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 1678**, Relating to the Texas Medicaid program regarding optional maternal and child health services; to the creation of the Maternal and Child Health Committee; and to authority for use of local funds in the Medicaid program.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1678 ON THIRD READING**

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1678** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**SENATE BILL 519 ON SECOND READING**

On motion of Senator Green and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 519**, Relating to violation of the competitive bidding requirements applicable to purchases by a school district; providing for criminal penalties.

The bill was read second time and was passed to engrossment viva voce vote.

**SENATE BILL 519 ON THIRD READING**

Senator Green moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 519** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
SENATE BILL 803 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 803**, Relating to the punishment for certain offenses committed against a child during a ritual or ceremony.

The bill was read second time and was passed to engrossment viva voce vote.

**RECORD OF VOTE**

Senator Washington asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 803 ON THIRD READING**

Senator Zaffirini moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 803** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

**RECORD OF VOTE**

Senator Washington asked to be recorded as voting "Nay" on the final passage of the bill.

(President in Chair)

**COMMITTEE SUBSTITUTE  
SENATE BILL 1096 ON SECOND READING**

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 1096**, Relating to the obligation of electric utilities to provide service to certain electric consumers.

The bill was read second time.

Senator Brown offered the following amendment to the bill:

Amend **C.S.S.B. 1096** by adding the following to the new Subsection (d) created by SECTION 1 of the bill:

Any customer refused service under this subsection may purchase or obtain electrical service from any other utility outside the franchised service area of the utility refusing service, any municipal utility, any co-op and/or any affiliate of that customer; and the utility with the original obligation to serve shall provide electric transmission service to the customer's point of delivery at a reasonable price. A rebuttable presumption of the ability to provide the required transmission service shall exist. For the purpose of this subsection, "affiliate" means a facility which produces or consumes electricity and is 50% or more owned or operated by the same person or entity.

The amendment was read.

On motion of Senator Caperton, the amendment was tabled by the following vote: Yeas 24, Nays 5.

Yeas: Barrientos, Bivins, Brooks, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Lyon, Montford, Parmer, Ratliff, Santiesteban, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Armbrister, Brown, Leedom, McFarland, Sims.

Absent: Parker, Washington.

The bill was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1096 ON THIRD READING**

Senator Caperton moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1096** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Sims, Washington.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1.

Nays: Sims.

**COMMITTEE SUBSTITUTE  
SENATE BILL 456 ON SECOND READING**

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 456**, Relating to the adoption of rules governing hospital admissions of emergency maternity patients.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 456 ON THIRD READING**

Senator Truan moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 456** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**SENATE BILL 1651 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 1651**, Relating to the exemption of certain vehicles used to transport clients of certain agencies from motor bus regulation by the Railroad Commission of Texas and to insurance standards for those vehicles.

The bill was read second time and was passed to engrossment viva voce vote.

**SENATE BILL 1651 ON THIRD READING**

Senator Barrientos moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 1651** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
SENATE BILL 895 ON SECOND READING**

Senator Harris moved to suspend the regular order of business to take up for consideration at this time:

**C.S.S.B. 895**, Relating to admissions to and programs at The University of Texas at Dallas and to The University of Texas at Brownsville and its governance, operation, management and control.

The motion prevailed by the following vote: Yeas 23, Nays 8.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Dickson, Edwards, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Montford, Parker, Parmer, Santiesteban, Tejeda, Truan, Uribe, Whitmire, Zaffirini.

Nays: Caperton, Carriker, Glasgow, Lyon, McFarland, Ratliff, Sims, Washington.

The bill was read second time.

Senator Harris offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend C.S.S.B. 895 in Sec. 70.08(e) as added by SECTION 1.01 of the Bill on Page 2 at Line 8 of the Bill, by adding a new sentence after the period to read as follows:

"Nothing in this Act shall prohibit the senior institutions of higher education in the North Texas region from creating and developing undergraduate and graduate programs in the areas of natural sciences, mathematics, and engineering."

The amendment was read and was adopted viva voce vote.

**RECORD OF VOTE**

Senator Caperton asked to be recorded as voting "Nay" on the adoption of the amendment.

Senator Harris offered the following amendment to the bill:

**Floor Amendment No. 2**

On Page 2, beginning on line 29, amend C.S.S.B. 895 by deleting in its entirety Sec. 70.09 as proposed to be added by SECTION 1.01 of the Bill.

Amend C.S.S.B. 895 in SECTION 1.01 on Page 1 in Line 28 by deleting the language "Sections 70.08 and 70.09" and inserting in lieu thereof the following language: "Section 70.08"

The amendment was read and was adopted viva voce vote.

**RECORD OF VOTE**

Senator Caperton asked to be recorded as voting "Nay" on the adoption of the amendment.

Senator Harris offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend C.S.S.B. 895 on page 2 in section 1.02(c) as follows:

(1) On line 55 page 2 strike the language, "two fiscal biennia that follow" and insert in lieu thereof the following language: "fiscal biennium that follows"

(2) Beginning with the word "Prior" on Line 65 of Page 2, strike the last three sentences of Subsection (c).

The amendment was read and was adopted viva voce vote.

**RECORD OF VOTE**

Senator Caperton asked to be recorded as voting "Nay" on the adoption of the amendment.

Senator Washington offered the following amendment to the bill:

**Floor Amendment No. 4**

Amend C.S.S.B. 895 as follows: On line 64, page 1, strike the word "population", and substitute the word "populations"

The amendment was read and was adopted viva voce vote.

**RECORD OF VOTE**

Senator Caperton asked to be recorded as voting "Nay" on the adoption of the amendment.

Senator Montford offered the following amendment to the bill:

**Floor Amendment No. 5**

Amend C.S.S.B. 895 as follows:

Amend the caption to read as follows:

relating to admissions to and programs at The University of Texas at Dallas, and The University of Texas of the Permian Basin, and to The University of Texas at Brownsville and its governance, operation, management, and control.

And amend C.S.S.B. 895 by adding a new Article 3 to read as follows and renumber subsequent Articles:

**ARTICLE 3. THE UNIVERSITY OF TEXAS OF THE PERMIAN BASIN**

SECTION 1. Section 72.01, Texas Education Code, is amended to read as follows:

"Section 72.01. ESTABLISHMENT. The Board of Regents of The University of Texas System shall establish and maintain a fully state-supported coeducational institution of higher education to be known as The University of Texas of the Permian Basin. The institution ~~is [shall be]~~ organized to teach primarily [accept only] junior-, senior-, and graduate-level courses but, with the prior approval by the Coordinating Board, Texas College and University System, the board of regents may establish four-year undergraduate degree programs for students majoring in engineering and energy-related sciences; provided, however, that four-year undergraduate degree programs for engineering and energy-related sciences may not be established to be effective prior to the fall semester, 1991 [students, with at least 60 semester hours of accredited college or university study].

The amendment was read and was adopted by the following vote: Yeas 21, Nays 10.

Yeas: Armbrister, Bivins, Dickson, Edwards, Green, Harris, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Tejada, Truan, Uribe, Washington, Whitmire, Zaffirini.

Nays: Barrientos, Brooks, Brown, Caperton, Carriker, Glasgow, Haley, Henderson, Ratliff, Sims.

On motion of Senator Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by the following vote: Yeas 20, Nays 11.



Yeas: Armbrister, Bivins, Carriker, Dickson, Edwards, Green, Haley, Harris, Johnson, Krier, Leedom, Montford, Parker, Parmer, Santiesteban, Tejeda, Truan, Uribe, Whitmire, Zaffirini.

Nays: Barrientos, Brooks, Brown, Caperton, Glasgow, Henderson, Lyon, McFarland, Ratliff, Sims, Washington.

**MOTION TO PLACE COMMITTEE SUBSTITUTE  
SENATE BILL 895 ON THIRD READING**

Senator Harris moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that C.S.B. 895 be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 19, Nays 12. (Not receiving four-fifths vote of Members present)

Yeas: Armbrister, Bivins, Brown, Dickson, Edwards, Harris, Henderson, Johnson, Krier, Leedom, Montford, Parker, Parmer, Santiesteban, Tejeda, Truan, Uribe, Whitmire, Zaffirini.

Nays: Barrientos, Brooks, Caperton, Carriker, Glasgow, Green, Haley, Lyon, McFarland, Ratliff, Sims, Washington.

**SENATE RULE 11.11 SUSPENDED**

On motion of Senator Glasgow and by unanimous consent, Senate Rule 11.11 was suspended in order that the Subcommittee on Workers' Compensation might consider S.B. 1592 immediately upon adjournment today.

**HOUSE BILL 2799 REREFERRED**

On motion of Senator Armbrister and by unanimous consent, H.B. 2799 was withdrawn from the Committee on Health and Human Services and rereferred to the Committee on Natural Resources.

**MEMORIAL RESOLUTIONS**

S.R. 611 - By Sims: In memory of Seaman Edward James Kimble of Fort Stockton.

S.R. 617 - By Armbrister: In memory of Barbara Herin Sachtleben of Edna.

**CONGRATULATORY RESOLUTIONS**

H.C.R. 203 - (Glasgow): Commending Harvey C. Byrd on the occasion of his retirement as Grand Secretary of the Masonic Grand Lodge of Texas.

S.C.R. 143 - By Lyon: Commending the staff of the Tyler District for their major contribution to the fight against litter.

S.R. 612 - By Uribe: Extending congratulations to Dr. Gilbert Leal on being named 1988-1989 Outstanding Contributor to Vocational Education.

S.R. 613 - By Parker: Recognizing Dr. Cheryl Mueller as an outstanding medical doctor.

S.R. 614 - By Parker: Expressing sincere gratitude to Dr. Bryan M. Cox, San Antonio physician, for providing expert care to countless citizens of our State.

**ADJOURNMENT**

On motion of Senator Brooks, the Senate at 12:55 p.m. adjourned, in memory of Seaman Edward James Kimble of Fort Stockton, who died April 19, 1989, aboard the battleship U.S.S. Iowa, until 11:00 a.m. tomorrow.

**APPENDIX**

Signed by Governor  
(May 8, 1989)

**H.C.R. 48**

(May 9, 1989)

**H.C.R. 42**

**H.C.R. 60**

**H.C.R. 67**

**H.C.R. 80**

**H.C.R. 94**

**H.C.R. 154**

**H.C.R. 155**

**H.C.R. 183**

**H.C.R. 193**

**H.C.R. 197**

**H.C.R. 214**

**H.B. 171** (Effective August 28, 1989)

**H.B. 239** (Effective September 1, 1989)

**H.B. 264** (Effective September 1, 1989)

**H.B. 361** (Effective September 1, 1989)

**H.B. 413** (Effective September 1, 1989)

**H.B. 575** (Effective August 28, 1989)

**H.B. 594** (Effective September 1, 1989)

**H.B. 769** (Effective immediately)

**H.B. 1035** (Effective immediately)

**H.B. 1168** (Effective immediately)

**H.B. 1271** (Effective August 28, 1989)

**H.B. 1400** (Effective immediately)

**H.B. 1417** (Effective September 1, 1989)

**SIXTY-SECOND DAY**

(Thursday, May 11, 1989)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by Senator Glasgow.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

A quorum was announced present.

Senate Doorkeeper Jim Morris offered the invocation as follows: